

THE ONE-HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 26, 2005

Assembly called to order at 12:10 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Ruth Hanusa.

O God, the Patriarch Jacob wrestled with humans and You and, though he came away limping, wrested a blessing for himself and his descendants, and declared that he had seen You face-to-face (Genesis 32). As we engage in the final days of this session, help us to be tenacious in our wrestling, knowing that wrestling strengthens, and need not divide. Give us ears eager to listen to each other's questions and fears, passions, and hopes. Grant us generous hearts more ready to compromise than condemn. Pour out upon us a spirit of reconciliation and graciousness. And even though we should come away limping, give us and our descendants a blessing, knowing that we have seen You face-to-face.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 240, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 188, 189, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 233, 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA BUCKLEY, *Chairman*

Mr. Speaker:

Your Committee on Education, to which was referred Senate Bill No. 221, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 62, 426, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID PARKS, *Chairman*

Mr. Speaker:

Your Committee on Growth and Infrastructure, to which was referred Senate Bill No. 45, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD PERKINS, *Chairman*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 22, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chairman*

Mr. Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 251, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN OCEGUERA, *Chairman*

Mr. Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 274, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which were referred Assembly Bills Nos. 172 and 560, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 289, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 411 and 499, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chairman*

Mr. Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 175, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 25, 2005

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 59, 114, 145, 156, 215, 232, 259, 323, 379, 421; Senate Bills Nos. 510, 511.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 15, Amendment No. 790; Assembly Bill No. 51, Amendment No. 801; Assembly Bill No. 404, Amendment No. 698; Assembly Bill No. 407, Amendment No. 789, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 56, 156, 310, 461.

CLAIRE J. CLIFT
Secretary of the Senate

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 64 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 347 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblywoman Giunchigliani moved that Assembly Bill No. 500 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Assemblywoman Buckley moved that Senate Bill No. 386 be taken from the Chief Clerk's desk and placed on Second Reading.

Remarks by Assemblywoman Buckley.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bills Nos. 172, 289, 560; Senate Bills Nos. 22, 45, 62, 188, 189, 221, 233, 240, 251, 332, and 426 just reported out of committee be placed on the Second Reading File for the current legislative day.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bills Nos. 175, 411, and 499 just reported out of committee be placed on the General File for the current legislative day.

Motion carried.

Assemblywoman Pierce moved that Senate Bill No. 235 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblywoman Pierce.

Motion carried.

Assemblywoman Pierce moved that Senate Bill No. 396 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblywoman Pierce.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 325 be taken from its position on the General File and placed at the top of the General File.

Remarks by Assemblyman Anderson.

Motion carried.

INTRODUCTION, FIRST READING, AND REFERENCE

Senate Bill No. 56.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 156.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 310.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 461.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 510.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 511.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 428.

Bill read second time.

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

Amendment No. 911.

Amend sec. 2, page 3, line 16, after “*officer*” by inserting: “*in a contested case*”.

Assemblyman Parks moved the adoption of the amendment.

Remarks by Assemblyman Parks.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Giunchigliani moved that Senate Bill No. 438 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 172.

Bill read second time.

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

Amendment No. 969.

Amend sec. 2, page 1, by deleting line 10 and inserting: "September 15, 2006, and September 21, 2007, respectively."

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 289.

Bill read second time.

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

Amendment No. 979.

Amend the bill as a whole by renumbering sec. 4 as sec. 5 and adding a new section designated sec. 4, following sec. 3, to read as follows:

"Sec. 4. 1. On or before July 1 of the 2005–2006 and 2006–2007 Fiscal Years, the Commission on Tourism shall transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism to the Office of Historic Preservation of the Department of Cultural Affairs to carry out the stewardship program created pursuant to section 1 of this act:

For the Fiscal Year 2005–2006	\$62,608
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For the Fiscal Year 2006–2007	\$77,225
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2. Any balance of the sums transferred pursuant to subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years and must be reverted to the Fund for the Promotion of Tourism on or before September 15, 2006, and September 21, 2007, respectively."

Amend the title of the bill, fourth line, after "resources;" by inserting: "providing funding to carry out the stewardship program;".

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 560.

Bill read second time.

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

Amendment No. 985.

Amend section 1, page 1, by deleting line 4 and inserting: “*be administered by the Department of Administration. The Department of Administration*”.

Amend section 1, page 1, line 7, by deleting: “*Board of Regents*” and inserting: “*Department of Administration*”.

Amend section 1, page 1, line 11, by deleting: “*Board of Regents,*” and inserting: “*Department of Administration,*”.

Amend section 1, page 1, line 12, by deleting: “*Board of Regents*” and inserting: “*Department of Administration*”.

Amend sec. 5, page 6, line 26, after “*enrollment,*” by inserting: “*excluding a summer academic term,*”.

Amend sec. 5, page 6, line 33, after “*semester,*” by inserting: “*excluding a summer academic term,*”.

Amend the bill as a whole by renumbering sections 6 and 7 as sections 7 and 8 and adding a new section designated sec. 6, following sec. 5, to read as follows:

“Sec. 6. NRS 120A.370 is hereby amended to read as follows:

120A.370 1. There is hereby created in the State Treasury the Abandoned Property Trust Fund.

2. All money received by the Administrator under this chapter, including the proceeds from the sale of abandoned property, must be deposited by the Administrator in the State Treasury for credit to the Abandoned Property Trust Fund.

3. Before making a deposit, the Administrator shall record the name and last known address of each person appearing from the holders’ reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in the Abandoned Property Trust Fund:

(a) Any costs in connection with the sale of abandoned property.

(b) Any costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.

(d) Any costs incurred in examining the records of a holder and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter.

5. At the end of each fiscal year, the amount of the balance in the Fund in excess of \$100,500 must be transferred. *The first \$7,600,000 each year must be transferred to the Millennium Scholarship Trust Fund created by NRS 396.926. The remainder must be transferred to the State General Fund,* but remains subject to the valid claims of holders pursuant to NRS 120A.340 or owners pursuant to NRS 120A.380.

6. If there is an insufficient amount of money in the Abandoned Property Trust Fund to pay any cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Abandoned Property Trust Fund of an amount necessary to pay those costs or charges. The Administrator shall repay the amount of the transfer as soon as sufficient money is available in the Abandoned Property Trust Fund.”.

Amend sec. 6, page 7, line 16, by deleting “\$100,000,000.” and inserting “\$35,000,000.”.

Amend sec. 7, page 7, line 17, by deleting: “4, 5 and 6” and inserting: “4 to 7, inclusive,”.

Amend the title of the bill to read as follows:

“AN ACT relating to millennium scholarships; revising the provisions governing the administration of the Millennium Scholarship Program and the Millennium Scholarship Trust Fund; revising the provisions governing eligibility for millennium scholarships; providing for the annual transfer of money from the Abandoned Property Trust Fund to the Millennium Scholarship Trust Fund; making an appropriation; and providing other matters properly relating thereto.”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 22.

Bill read second time and ordered to third reading.

Senate Bill No. 45.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 741.

Amend section 1, page 2, by deleting lines 1 and 2 and inserting: “of the installment of taxes. ~~[The tax receiver forthwith shall forward one copy of the protest to the Attorney General and one copy to~~”.

Amend the title of the bill, second line, after “provide” by inserting: “the Attorney General and”.

Amend the summary of the bill to read as follows:

“SUMMARY—Eliminates requirement that Attorney General and State Controller receive copy of written protest filed by property owner concerning property taxes. (BDR 32-166)”.

Assemblywoman Allen moved the adoption of the amendment.

Remarks by Assemblywoman Allen.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 62.

Bill read second time.

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

Amendment No. 892.

Amend section 1, page 2, line 13, after “to” by inserting: “*or changing ownership of*”.

Amend the bill as a whole by renumbering sec. 2 as sec. 4 and adding new sections designated sections 2 and 3, following section 1, to read as follows:

“Sec. 2. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection ~~{4}~~ 5 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation and printed and published in the county where the water is sought to be appropriated, a notice of the application which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
- (f) The purpose for which the water is to be appropriated.

The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

- (a) For municipal, quasi-municipal or industrial use; and
- (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to his address as shown in the latest records of the county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before he may consider the application.

4. The provisions of this section do not apply to an environmental permit.

Sec. 3. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and ~~subsection 7,~~ and subsections 3 and 8, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. *Except as otherwise provided in subsection 8, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:*

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

~~{4.}~~ 5. Except as otherwise provided in subsection ~~{7.}~~ 8, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

~~{5.}~~ 6. In determining whether an application for an interbasin transfer of ground water must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

~~{6.}~~ 7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~{8.}~~ 9, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps

toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

~~{7-}~~ 8. The provisions of subsections 1 to ~~{5-}~~ 6, inclusive, do not apply to an application for an environmental permit.

~~{8-}~~ 9. The provisions of subsection ~~{6-}~~ 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~{9-}~~ 10. As used in this section, "interbasin transfer of ground water" means a transfer of ground water for which the proposed point of diversion is in a different basin than the proposed place of beneficial use."

Amend sec. 2, page 3, line 25, by deleting "*final*." and inserting: "*final or until a final resolution of the conflicting claims has otherwise occurred*."

Amend the bill as a whole by renumbering sections 3 and 4 as sections 6 and 7 and adding a new section designated sec. 5, following sec. 2, to read as follows:

"Sec. 5. NRS 538.171 is hereby amended to read as follows:

538.171 1. The Commission shall receive, protect and safeguard and hold in trust for the State of Nevada all water and water rights, and all other rights, interests or benefits in and to the waters described in NRS 538.041 to 538.251, inclusive, and to the power generated thereon, held by or which may accrue to the State of Nevada under and by virtue of any Act of the Congress of the United States or any agreements, compacts or treaties to which the State of Nevada may become a party, or otherwise.

2. Except as otherwise provided in this subsection, applications for the original appropriation of such waters, or to change the place of diversion, manner of use or place of use of water covered by the original appropriation, must be made to the Commission in accordance with the regulations of the Commission. In considering such an application, the Commission shall use the criteria set forth in subsection ~~{4-}~~ 6 of NRS 533.370. The Commission's action on the application constitutes the recommendation of the State of Nevada to the United States for the purposes of any federal action on the matter required by law. The provisions of this subsection do not apply to supplemental water.

3. The Commission shall furnish to the State Engineer a copy of all agreements entered into by the Commission concerning the original appropriation and use of such waters. It shall also furnish to the State Engineer any other information it possesses relating to the use of water from the Colorado River which the State Engineer deems necessary to allow him to act on applications for permits for the subsequent appropriation of these waters after they fall within the State Engineer's jurisdiction.

4. Notwithstanding any provision of chapter 533 of NRS, any original appropriation and use of the waters described in subsection 1 by the

Commission or by any entity to whom or with whom the Commission has contracted the water is not subject to regulation by the State Engineer.”.

Amend sec. 3, page 4, line 6, after “by” by inserting:
“the amendatory provisions of sections 1 and 4 of”.

Amend the title of the bill, second line, after “rights;” by inserting:
“revising the provisions concerning the approval or rejection of an application to change the point of diversion of water in certain circumstances;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning provisions governing water rights. (BDR 48-681)”.

Assemblyman Goicoechea moved the adoption of the amendment.

Remarks by Assemblyman Goicoechea.

Amendment adopted.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblywoman Buckley moved that all rules be suspended and the reprinting of Senate Bill No. 62 be dispensed with and the bill be placed on third reading and final passage for the next legislative day.

Motion carried unanimously.

SECOND READING AND AMENDMENT

Senate Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 913.

Amend section 1, page 2, line 26, by deleting “residences” and inserting:
“residences, schools, public buildings”.

Amend section 1, page 3, line 1, by deleting “residences” and inserting:
“residences, schools, public buildings”.

Amend the bill as a whole by adding new sections designated sections 1.3 and 1.7, following section 1, to read as follows:

“Sec. 1.3. NRS 702.170 is hereby amended to read as follows:

702.170 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 702.160. Such regulations may require public utilities, municipal utilities and retail customers that are required to collect or remit money for the universal energy charge to file reports and to provide the Commission with information relating to compliance with the requirements of the universal energy charge.

2. In carrying out the provisions of NRS 702.160, the Commission shall solicit advice from the Consumer’s Advocate of the Bureau of Consumer Protection in the Office of the Attorney General, public utilities and municipal utilities and other knowledgeable persons.

3. The Commission may conduct audits and investigations of public utilities, municipal utilities and retail customers that are required to collect or remit money for the universal energy charge ~~if~~ if the Commission determines that such audits and investigations are necessary to verify compliance with the requirements of the universal energy charge. In conducting such audits and investigations, the Commission may exercise any of the investigative powers granted to the Commission pursuant to chapter 703 of NRS, including, without limitation, the power to issue orders to compel the appearance of witnesses and the production of books, accounts, papers and records.

4. To carry out its powers and duties pursuant to this chapter, the Commission is entitled to an administrative charge of not more than ~~{3}~~ 2 percent of the money collected for the universal energy charge. After deduction of its administrative charge, the Commission shall deposit the remaining money collected for the universal energy charge in the State Treasury for credit to the Fund.

5. The Commission may bring an appropriate action in its own name for recovery of any money that a person fails to pay, collect or remit in violation of the requirements of the universal energy charge.

Sec. 1.7. NRS 702.260 is hereby amended to read as follows:

702.260 1. Seventy-five percent of the money in the Fund must be distributed to the Welfare Division for programs to assist eligible households in paying for natural gas and electricity. The Welfare Division may use not more than ~~{3}~~ 7 percent of the money distributed to it pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Welfare Division may use the money distributed to it pursuant to this section only to:

- (a) Assist eligible households in paying for natural gas and electricity.
- (b) Carry out activities related to consumer outreach.
- (c) Pay for program design.
- (d) Pay for the annual evaluations conducted pursuant to NRS 702.280.

3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the Welfare Division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the Welfare Division.

4. The Welfare Division is authorized to render emergency assistance to a household if an emergency related to the cost or availability of natural gas or electricity threatens the health or safety of one or more of the members of the household. Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.

5. Before July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Welfare Division shall determine the amount of

assistance that the household will receive by using the existing formulas set forth in the state plan for low-income home energy assistance.

6. On or after July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Welfare Division:

(a) Shall, to the extent practicable, determine the amount of assistance that the household will receive by determining the amount of assistance that is sufficient to reduce the percentage of the household's income that is spent on natural gas and electricity to the median percentage of household income spent on natural gas and electricity statewide.

(b) May adjust the amount of assistance that the household will receive based upon such factors as:

(1) The income of the household;

(2) The size of the household;

(3) The type of energy that the household uses; and

(4) Any other factor which, in the determination of the Welfare Division, may make the household particularly vulnerable to increases in the cost of natural gas or electricity.

7. The Welfare Division shall adopt regulations to carry out and enforce the provisions of this section and NRS 702.250.

8. In carrying out the provisions of this section, the Welfare Division shall:

(a) Solicit advice from the Housing Division and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Establish a process for evaluating the programs conducted pursuant to this section;

(e) Develop a process for making changes to such programs; and

(f) Engage in annual planning and evaluation processes with the Housing Division as required by NRS 702.280."

Amend sec. 12, page 6, by deleting line 15 and inserting:

"(a) For calendar years ~~{2003 and 2004,}~~ 2005 and 2006, not less than ~~{5}~~ 6 percent of".

Amend sec. 12, page 6, by deleting line 18 and inserting:

"(b) For calendar years ~~{2005 and 2006,}~~ 2007 and 2008, not less than ~~{7}~~ 9 percent of".

Amend sec. 12, page 6, by deleting line 21 and inserting:

"(c) For calendar years ~~{2007 and 2008,}~~ 2009 and 2010, not less than ~~{9}~~ 12 percent of".

Amend sec. 12, page 6, by deleting line 24 and inserting:

“(d) For calendar years ~~[2009 and 2010,]~~ 2011 and 2012, not less than ~~[14]~~ 15 percent”.

Amend sec. 12, page 6, by deleting line 27 and inserting:

“(e) For calendar years ~~[2011 and 2012,]~~ 2013 and 2014, not less than ~~[13]~~ 18 percent”.

Amend sec. 12, page 6, line 30, by deleting “2013” and inserting “~~[2013]~~ 2015”.

Amend sec. 12, page 6, line 31, by deleting “15” and inserting “~~[15]~~ 20”.

Amend sec. 14, page 10, by deleting line 27 and inserting: “this section must be deposited in the ~~[State General Fund,]~~ Trust Fund for Renewable Energy and Energy Conservation.”.

Amend the title of the bill, first line, after “energy;” by inserting: “reducing the amount of certain administrative charges to which the Public Utilities Commission of Nevada is entitled from money collected for the universal energy charge; increasing the amount of certain administrative expenses available for use by the Welfare Division of the Department of Human Resources for programs to assist eligible households in paying for natural gas and electricity;”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

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

Senate Bill No. 189.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 914.

Amend section 1, page 2, by deleting lines 21 through 35 and inserting:

“3. *If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive. As used in this subsection, “area of primary responsibility” means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.*”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 221.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 928.

Amend the bill as a whole by deleting section 1 and renumbering sections 2 and 3 as sections 1 and 2.

Amend sec. 2, page 4, by deleting lines 4 and 5 and inserting: *“interscholastic activities and events, including sports. A homeschooled child who participates in interscholastic activities and events pursuant to this subsection must participate within the school district of the child’s residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils”*.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

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

Senate Bill No. 233.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 759.

Amend sec. 2, page 3, by deleting lines 3 through 6 and inserting:

“4. A local governing body may adopt reasonable restrictions regarding the time, place,”.

Amend sec. 2, page 3, line 16, after “7.” by inserting: *“A local governing body may not charge any fee for issuing an annual permit pursuant to this section.*

8.”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

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

Senate Bill No. 240.

Bill read second time and ordered to third reading.

Senate Bill No. 251.

Bill read second time and ordered to third reading.

Senate Bill No. 332.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 681.

Amend the bill as a whole by deleting sec. 29 and renumbering sections 30 through 34 as sections 29 through 33.

Amend sec. 34, page 25, line 2, by deleting: “30, 32 and 33” and inserting: “31 and 32”.

Amend sec. 34, page 25, line 5, by deleting “30” and inserting “29”.

Amend sec. 34, page 25, line 16, by deleting “31” and inserting “30”.

Amend the title of the bill, page 2, second line, by deleting “revising fees;”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

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

Senate Bill No. 426.

Bill read second time.

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

Amendment No. 889.

Amend the bill as a whole by renumbering section 1 as sec. 2 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The fact that a particular project or undertaking does not qualify as a public work, as defined in NRS 338.010, does not exempt a person, including, without limitation, a contractor or subcontractor, or a governmental entity, from complying with the provisions of this section and NRS 338.010 to 338.090, inclusive, in the same manner as a public body is required to comply with those provisions if the person or governmental entity is otherwise required to comply with the provisions of this section and NRS 338.010 to 338.090, inclusive, by specific statute.”.

Amend section 1, page 4, by deleting lines 14 through 17 and inserting:

“(b) A ~~building for~~ project of the University and Community College System of Nevada ~~[of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.]~~ for which the estimated cost exceeds \$100,000.”.

Amend the bill as a whole by renumbering sections 2 through 4 as sections 4 through 6 and adding a new section designated sec. 3, following section 1, to read as follows:

“Sec. 3. NRS 338.050 is hereby amended to read as follows:

338.050 For the purpose of NRS 338.010 to 338.090, inclusive, *and section 1 of this act*, except as otherwise provided by specific statute, every workman who performs work for a public work covered by a contract therefor is subject to all of the provisions of NRS 338.010 to 338.090, inclusive, *and section 1 of this act*, regardless of any contractual relationship alleged to exist between such workman and his employer.”.

Amend sec. 3, page 8, line 10, by deleting “contract.” and inserting: “contract, unless approval of the change order is more economically feasible than termination of the retrofit.”.

Amend sec. 4, page 10, line 13, by deleting “contract.” and inserting: “contract, unless approval of the change order is more economically feasible than termination of the retrofit.”.

Amend the bill as a whole by renumbering sec. 5 as sec. 25 and adding new sections designated sections 7 through 24, following sec. 4, to read as follows:

“Sec. 7. Chapter 333A of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 22, inclusive, of this act.

Sec. 8. “Board” means:

1. If the using agency that enters into a performance contract is the University and Community College System of Nevada, the Board of Regents of the University of Nevada; or

2. For any other using agency that enters into a performance contract, the State Board of Examiners.

Sec. 9. 1. Notwithstanding any provision of chapter 333 of NRS, NRS 333A.010 to 333A.150, inclusive, and sections 8 to 22, inclusive, of this act, and chapter 338 of NRS to the contrary, a using agency may enter into a performance contract with a qualified service company for the purchase and installation of one or more operating cost-savings measures to reduce costs related to energy, water and the disposal of waste, and related labor costs.

2. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.

Sec. 10. 1. The Purchasing Division of the Department of Administration shall work directly with any using agency interested in entering into a performance contract, using the list of qualified service companies compiled by the State Public Works Board pursuant to NRS 333A.080. The Purchasing Division, in conjunction with the using agency, shall ensure that each appropriate qualified service company is notified of the using agency’s interest in entering into a performance contract and coordinate an opportunity for each such qualified service company to:

(a) Visit the site pertaining to which the using agency wishes to enter into a performance contract;

(b) Perform a comprehensive audit in the manner prescribed in section 11 of this act; and

(c) Submit a proposal, including, without limitation, the comprehensive audit, and make a related presentation to the using agency for all operating cost-savings measures that the qualified service company determines would be practicable to implement.

2. The using agency shall:

(a) Evaluate the proposals and presentations made pursuant to subsection 1;

(b) Evaluate the financial stability of the qualified service companies that made proposals and presentations pursuant to subsection 1 based on the financial statements and ratings of the qualified service companies; and

(c) *Select a qualified service company, pursuant to the provisions of NRS 333A.010 to 333A.150, inclusive, and sections 8 to 22, inclusive, of this act, and any regulations adopted pursuant thereto, for evaluating and awarding contracts.*

3. *A qualified service company selected by a using agency pursuant to subsection 2 shall prepare a financial-grade operational audit, which must include, without limitation:*

(a) *A detailed explanation of the operating cost savings that will result from the performance contract; and*

(b) *A comparison of the costs of implementing the operating cost-savings measures to the operating cost savings that are anticipated as a result of the performance contract.*

4. *Except as otherwise provided in this subsection, the financial-grade operational audit prepared by the qualified service company pursuant to subsection 3 becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the financial-grade operational audit shall be deemed to be part of the performance contract. If, after the financial-grade operational audit is prepared, the using agency decides not to execute the performance contract, the using agency shall pay the qualified service company that prepared the financial-grade operational audit the costs incurred by the qualified service company in preparing the financial-grade operational audit, if the Legislature has specifically appropriated money for that purpose. An appropriation by the Legislature for the purchase and installation of an operating cost-savings measure creates no presumption that the using agency for which the money was appropriated is required to enter into such a performance contract.*

Sec. 11. 1. *Each comprehensive audit performed pursuant to paragraph (b) of subsection 1 of section 10 of this act must include, without limitation:*

(a) *An assessment of any operating cost-savings measure that might be implemented within the building of the using agency, including, without limitation, any operating cost-savings measure specifically requested by the using agency;*

(b) *An estimate of the costs associated with implementing an operating cost-savings measure described in paragraph (a);*

(c) *A comparison of the energy and water consumption in the building of the using agency to the energy and water consumption in similar buildings; and*

(d) *A report that compares the current pattern of the costs to the using agency associated with energy consumption, water consumption and the disposal of waste, and related labor costs, to the projected costs if the using agency implements operating cost-savings measures.*

2. *A comprehensive audit must be based on:*

(a) A review and analysis of the historical energy and water usage of the using agency; and

(b) Surveys, plans, specifications or drawings that provide details of the structure or design of the building of the using agency.

3. The using agency shall provide to each qualified service company that intends to perform a comprehensive audit the records of the energy and water consumption of the building.

Sec. 12. 1. A using agency that selects a qualified service company pursuant to section 10 of this act shall retain the professional services of a third-party consultant to work on behalf of the using agency in coordination with the qualified service company.

2. A third-party consultant retained pursuant to subsection 1 must be certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization.

3. The duties of a third-party consultant retained pursuant to subsection 1 may include, without limitation:

(a) Assisting the using agency in reviewing the operating cost-savings measures proposed by the qualified service company;

(b) Overseeing the construction of the operating cost-savings measures; and

(c) Monitoring the operating cost savings after the construction of the operating cost-savings measures is completed.

4. The Purchasing Division of the Department of Administration may procure sufficient funding from the qualified service company, through negotiation, to pay for the third-party consultant out of the proceeds relating to the performance contract. A qualified service company shall not pay a third-party consultant directly for the work described in subsection 3.

5. A third-party consultant retained pursuant to subsection 1 may recommend that the using agency not execute the performance contract. If the using agency does not execute the performance contract, the using agency shall pay the third-party consultant a pre-negotiated fee based on the work completed by the third-party consultant.

Sec. 13. In connection with any installment-purchase contract or lease-purchase contract entered into to finance a performance contract, the Board may:

1. Grant a security interest in any property that is the subject of the installment-purchase contract or lease-purchase contract and execute an instrument to evidence such a security interest, including, without limitation, a deed of trust, a leasehold interest deed of trust, a mortgage or a financing agreement.

2. Offer certificates of participation.

3. If the installment-purchase contract or lease-purchase contract involves an improvement to property owned by the State of Nevada or the using agency, enter into a lease of the property to which the improvement

will be made and any property that is adjacent to that property if the installment-purchase contract or lease-purchase contract:

(a) Except as otherwise provided in section 20 of this act, has a term of not more than 15 years beyond the date on which construction of the work required by the installment-purchase contract or lease-purchase contract is completed; and

(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the Board at the time the parties enter into the lease, which must be paid if the installment-purchase contract or lease-purchase contract terminates before the expiration of the lease because the Legislature fails to appropriate money for payments due pursuant to the installment-purchase contract or lease-purchase contract.

A lease entered into pursuant to this subsection may provide for nominal rental payments to be paid pursuant to the lease before the installment-purchase contract or lease-purchase contract terminates.

4. Enter into any other agreement, contract or arrangement that the Board determines would be beneficial to the purpose of the installment-purchase contract or lease-purchase contract, including, without limitation, contracts for professional services, trust indentures, paying agent agreements and contracts of insurance.

Sec. 14. For the period during which an installment-purchase contract or lease-purchase contract that was entered into to finance a performance contract is in effect, the property that is the subject of the installment-purchase contract or lease-purchase contract:

1. Is exempt from ad valorem property taxation by this State and its political subdivisions if:

(a) An improvement is being constructed on the property pursuant to the installment-purchase contract or lease-purchase contract; or

(b) This State or a using agency is in possession of the property.

2. Shall be deemed to be the property of this State or the using agency that is a party to the installment-purchase contract or lease-purchase contract for the purposes of statutory limits on damages that may be awarded against this State, including, without limitation, the limits in chapter 41 of NRS, with respect to any action or claim, including a claim for civil damages, that arises from or is related to the property and is brought by a person who is not a party to the installment-purchase contract or lease-purchase contract if:

(a) An improvement is being constructed on the property pursuant to the installment-purchase contract or lease-purchase contract; or

(b) This State or the using agency is in possession of the property.

Sec. 15. Any obligations of this State issued in accordance with NRS 333A.010 to 333A.150, inclusive, and sections 8 to 22, inclusive, of this act may be refunded on behalf of the State by the Board without the necessity of the refunding obligations being authorized by NRS 333A.010 to 333A.150,

inclusive, and sections 8 to 22, inclusive, of this act, by the adoption of a resolution by the Board authorizing the issuance of obligations to refund, pay and discharge all or any part of such outstanding obligations of any one or more or all outstanding issues:

1. For the acceleration, deceleration or other modification of the payment of such obligations, including, without limitation, any interest on such obligations that is in arrears or about to become due for any period not exceeding 3 years after the date of the issuance of the refunding obligations, unless the capitalization of interest on obligations constituting an indebtedness increases the debt of the State in excess of the limitation set forth in Section 3 of Article 9 of the Nevada Constitution.

2. For the purpose of reducing interest costs or effecting other economies.

3. For the purpose of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional obligations, otherwise concerning the outstanding obligations, or otherwise relating to any operating cost-savings measure appertaining thereto.

4. For any combination of the purposes set forth in subsections 1, 2 and 3.

Sec. 16. 1. Except as otherwise provided in sections 15 to 20, inclusive, of this act, the proceeds of refunding obligations issued pursuant to section 15 of this act must be immediately applied to the retirement of the obligations to be refunded or be placed in escrow or trust in any trust bank or trust banks within or without or both within and without this State to be applied to the payment of the refunded obligations or the refunding obligations, or both, upon their presentation for payment to the extent, in such priority and otherwise in the manner which the using agency may determine.

2. The incidental costs of refunding obligations may be paid by the purchaser of the refunding obligations or be defrayed from any revenues in the State General Fund, subject to appropriations for such revenues as otherwise provided by law, or other available revenues of the State under the control of the Board or from the proceeds of the refunding obligations, or from the interest or other yield derived from the investment of the proceeds of any refunding obligations or other money in escrow or trust, or from any other sources legally available therefor, or any combination thereof, as the using agency may determine.

3. Any accrued interest and any premium appertaining to a sale of refunding obligations may be applied to the payment of the interest on or principal of those refunding obligations, or both, or may be deposited in a reserve therefor, or may be used to refund obligations by deposit in escrow, trust or otherwise, or may be used to defray any incidental costs appertaining to the refunding, or any combination thereof, as the using agency may determine, but in no event by the incurrence of additional debt in

excess of the limitation on state debt set forth in Section 3 of Article 9 of the Nevada Constitution.

Sec. 17. 1. Any escrow or trust into which the proceeds of refunding obligations are placed pursuant to section 16 of this act must not necessarily be limited to proceeds of refunding obligations but may include other money available for its purpose.

2. Any proceeds of refunding obligations placed in escrow or trust, pending such use, may be invested or reinvested in federal securities, and in the case of an escrow or trust for the refunding of outstanding obligations issued in accordance with sections 15 to 20, inclusive, of this act in other securities issued by the Federal Government if the resolution by the Board authorizing the issuance of such outstanding state securities or any trust indenture or other proceedings appertaining thereto expressly allows any such investment or reinvestment in such securities issued by the Federal Government other than federal securities.

3. A trust bank accounting for federal securities and other securities issued by the Federal Government in such escrow or trust may place the securities for safekeeping wholly or in part in any trust bank or trust banks within or without or both within and without this State.

4. A trust bank shall continuously secure any money placed in escrow or trust and not so invested or reinvested in federal securities and other securities issued by the Federal Government by a pledge in any trust bank or trust banks within or without or both within and without the State of federal securities in an amount at all times at least equal to the total uninvested amount of such money accounted for in such escrow or trust.

5. Such proceeds and investments in escrow or trust, together with any interest or other gain to be derived from any such investment, must be in an amount at all times at least sufficient to pay principal, interest, any prior redemption premiums due, and any charges of the escrow agent or trustee and any other incidental expenses payable therefrom, except to the extent provision may have been previously otherwise made therefor, as such obligations become due at their respective maturities or due at designated prior redemption date or dates in connection with which the using agency has exercised or is obligated to exercise a prior redemption option on behalf of the State.

6. The computations made in determining such sufficiency must be verified by a certified public accountant licensed to practice in this State or in any other state.

7. Any purchaser of any refunding obligation issued pursuant to sections 15 to 20, inclusive, of this act is not responsible for the application of the proceeds of the refunding obligation by the State, the Board, the using agency or any of the officers, agents or employees of the State.

8. As used in this section, "federal securities" means bills, notes, certificates of indebtedness, bonds or other similar securities which are direct obligations of the United States or which are unconditionally

guaranteed as to payment, both of principal and of interest, by the United States.

Sec. 18. Obligations for refunding and obligations for any other purpose authorized pursuant to sections 15 to 20, inclusive, of this act or by any other law may be issued separately or issued in combination in one series or more by the State in accordance with the provisions of sections 15 to 20, inclusive, of this act.

Sec. 19. Except as otherwise provided in sections 15 to 20, inclusive, of this act, the relevant provisions elsewhere herein appertaining generally to the issuance of obligations to defray the cost of any operating cost-savings measure are equally applicable in the authorization and issuance of refunding obligations, including, without limitation, their terms and security, the covenants and other provisions of the resolution authorizing the issuance of the obligations, or other instrument or proceedings appertaining thereto, and other aspects of the obligations.

Sec. 20. 1. An obligation may not be refunded pursuant to sections 15 to 20, inclusive, of this act unless the holder of the obligation voluntarily surrenders the obligation for exchange or payment, or unless the obligation matures or is callable for prior redemption under its terms within 25 years after the date of issuance of the refunding obligations. Provision must be made for paying the securities within that period.

2. The maturity of any obligation refunded may not be extended beyond 25 years, or beyond 1 year next following the date of the last outstanding maturity, whichever limitation is later.

3. The principal amount of the refunding obligations may:

- (a) Exceed the principal amount of the refunded obligations; or*
- (b) Be less than or equal to the principal amount of the obligations being refunded if provision is duly and sufficiently made for their payment.*

Sec. 21. The determination of the using agency that the limitations imposed upon the issuance of obligations pursuant to NRS 333A.010 to 333A.150, inclusive, and sections 8 to 22, inclusive, of this act, including, without limitation, any obligations for funding or refunding obligations, have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion regardless of whether the authorizing resolution or the obligations authorized by that resolution contain a recital as authorized by section 22 of this act.

Sec. 22. A resolution providing for the issuance of a performance contract, including, without limitation, an installment-purchase contract or lease-purchase contract or other proceedings appertaining thereto, may provide that the obligations contain a recital that the obligations are issued pursuant to NRS 333A.010 to 333A.150, inclusive, and sections 8 to 22, inclusive, of this act, which recital is conclusive evidence of the validity of the obligations.

Sec. 23. NRS 333A.010 is hereby amended to read as follows:

333A.010 As used in NRS 333A.010 to 333A.150, inclusive, *and sections 8 to 22, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 333A.020 to 333A.070, inclusive, *and section 8 of this act* have the meanings ascribed to them in those sections.

Sec. 24. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. ~~{Notwithstanding any provision of this chapter and chapters 333 and 338 of NRS to the contrary, a using agency may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease purchase contract that is subject to the provisions of NRS 353.500 to 353.630, inclusive. Any operating cost savings measures put into place as a result of a performance contract must comply with all applicable building codes.~~

~~2.}~~ The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of NRS 333A.010 to 333A.150, inclusive ~~{, and sections 8 to 22, inclusive, of this act}~~. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the Office of Energy within the Office of the Governor, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

~~{3.}~~ 2. In sending out a request for qualifications, the State Public Works Board:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

~~{4.}~~ 3. The State Public Works Board shall ~~{use objective}~~ *adopt, by regulation*, criteria to determine those companies that satisfy the requirements of qualified service companies. The ~~{objective}~~ criteria for evaluation must include , *without limitation*, the following areas as substantive factors to assess the capability of such companies:

(a) Design;

(b) Engineering;

(c) Installation;

(d) Maintenance and repairs associated with performance contracts;

(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

(f) Monitoring projects after the projects are installed;

- (g) Data collection and reporting of savings;
- (h) Overall project experience and qualifications;
- (i) Management capability;
- (j) Ability to access long-term financing;
- (k) Experience with projects of similar size and scope; and
- (l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the ~~{project.}~~ *projects.*

In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider ~~{the financial health of the company as evidenced by its financial statements and ratings and}~~ whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

~~{5.}~~ 4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies. ~~{The Purchasing Division of the Department of Administration shall work directly with any using agency interested in entering into a performance contract, using the list of qualified service companies compiled by the State Public Works Board. The Purchasing Division, in conjunction with the using agency, shall ensure that each appropriate qualified service company is notified of the using agency's interest in entering into a performance contract and coordinate an opportunity for each such qualified service company to:~~

- ~~(a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost savings measures that might be implemented within the buildings of the using agency, including any operating cost savings measures specifically requested by the using agency; and~~
- ~~(b) Submit a proposal and make a related presentation to the using agency for all such operating cost savings measures that the qualified service company determines would be practicable to implement.~~

~~6. The using agency shall:~~

- ~~(a) Evaluate the proposals and presentations made pursuant to subsection 5; and~~
- ~~(b) Select a qualified service company,~~
~~pursuant to the provisions of this chapter and chapter 333 of NRS, and any regulations adopted pursuant thereto, for evaluating and awarding contracts.~~

~~7. A qualified service company selected by a using agency pursuant to subsection 6 shall prepare a financial grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract. If, after the audit is prepared, the using agency decides not to execute the performance contract, the using agency shall pay the qualified service company that~~

~~prepared the audit the costs incurred by the qualified service company in preparing the audit, if the Legislature has specifically appropriated money for that purpose. An appropriation by the Legislature for the purchase and installation of an operating cost savings measure creates no presumption that the using agency for which the money was appropriated is required to enter into such a contract.~~

~~8. The using agency shall retain the professional services of a third party consultant with the requisite technical expertise to assist the using agency in reviewing the operating cost savings measures proposed by the qualified service company. The Purchasing Division of the Department of Administration may procure sufficient funding from the qualified service company, through negotiation, to pay for the third party consultant. Such a third party consultant must be certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization. A third party consultant retained pursuant to this subsection shall work on behalf of the using agency in coordination with the qualified service company.]".~~

Amend sec. 5, page 10, by deleting lines 18 through 20 and inserting:

"333A.090 1. Any financing related to a performance contract must be approved by the Board.

2. A performance contract may be financed through {a} :

(a) A person other than the qualified service company.

~~{2.}~~ *(b) An installment-purchase contract or lease-purchase contract.*

Such an installment-purchase contract or lease-purchase contract is not subject to:

(1) The provisions of NRS 353.500 to 353.630, inclusive.

(2) Any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts or the procurement of goods or services.

3. A performance contract may be structured as:".

Amend sec. 5, page 10, line 26, after "including" by inserting: *“, without limitation,”.*

Amend sec. 5, page 10, line 29, by deleting: "annually or over" and inserting: ~~{annually or over}~~ :

(1) When the work required by the performance contract is completed and 1 year after that work is completed; or

(2) Over".

Amend sec. 5, page 10, line 36, by deleting "3." and inserting "4.".

Amend sec. 5, page 10, line 41, by deleting "4." and inserting "5.".

Amend sec. 5, page 11, line 2, by deleting "contract." and inserting: *"contract, unless approval of the change order is more economically feasible than termination of the operating cost-savings measure."*

Amend the bill as a whole by renumbering sec. 6 as sec. 28 and adding new sections designated sections 26 and 27, following sec. 5, to read as follows:

“Sec. 26. NRS 333A.100 is hereby amended to read as follows:

333A.100 1. Notwithstanding any provision of NRS 333A.010 to 333A.150, inclusive, *and sections 8 to 22, inclusive, of this act* to the contrary, a performance contract entered into pursuant to NRS 333A.010 to 333A.150, inclusive, *and sections 8 to 22, inclusive, of this act* does not create a debt for the purposes of Section 3 of Article 9 of the Nevada Constitution.

2. Except as otherwise provided in this section, the term of a performance contract may extend beyond the biennium in which the contract is executed, provided that the performance contract contains a provision which states that all obligations of the State under the performance contract are extinguished at the end of any fiscal year if the Legislature fails to provide an appropriation to the using agency for the ensuing fiscal year for payments to be made under the performance contract. If the Legislature fails to appropriate money to a using agency for a performance contract, there is no remedy against the State, except that if a security interest in any property was created pursuant to the performance contract, the holder of such a security interest may enforce the security interest against that property. ~~{The}~~ *Except as otherwise provided in section 20 of this act, the term of a performance contract must not exceed 15 years ~~{-}~~ after the date on which the work required by the performance contract is completed.*

3. The length of a performance contract may reflect the useful life of the operating cost-savings measure being installed or purchased under the performance contract.

Sec. 27. NRS 333A.130 is hereby amended to read as follows:

333A.130 1. During the term of a performance contract, the qualified service company shall monitor the reductions in energy or water consumption and other operating cost savings attributable to the operating cost-savings measure purchased or installed under the performance contract, and shall ~~{-at least once a year or at such other intervals specified in the performance contract-}~~ prepare and provide a report to the using agency documenting the performance of the operating cost-savings measures ~~{-}~~ :

(a) *At the time that the work required by the performance contract is completed and 1 year after that work is completed; or*

(b) *At such other intervals as specified in the performance contract.*

2. A qualified service company and the using agency may agree to make modifications in the calculation of savings based on:

(a) Subsequent material changes to the baseline consumption of energy or water identified at the beginning of the term of the performance contract.

(b) A change in utility rates.

(c) A change in the number of days in the billing cycle of a utility.

(d) A change in the total square footage of the building.

(e) A change in the operational schedule, and any corresponding change in the occupancy and indoor temperature, of the building.

(f) A material change in the weather.

(g) A material change in the amount of equipment or lighting used at the building.

(h) Any other change which reasonably would be expected to modify the use of energy or the cost of energy.”.

Amend sec. 6, page 11, line 4, by deleting: “3 and 4” and inserting: “5 and 6”.

Amend the title of the bill to read as follows:

“AN ACT relating to public contracts; clarifying the applicability of prevailing wage requirements; revising the types of projects of the University and Community College System of Nevada that constitute public works; providing that certain documents furnished to a public body may be transmitted and stored electronically; requiring that annual energy savings resulting from energy retrofit projects meet or exceed the total annual contract payments; revising requirements relating to performance contracts for operating cost-savings measures in buildings occupied by state agencies; providing requirements for such performance contracts that are financed as installment-purchase contracts or lease-purchase contracts; authorizing the issuance of refunding obligations relating to performance contracts; requiring that annual operating cost savings resulting from performance contracts meet or exceed the total annual contract payments; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises provisions relating to certain public contracts. (BDR 28-1032)”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 325.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 1032.

Amend sec. 39, page 12, line 1, by deleting “5” and inserting “10”.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

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

Senate Bill No. 396.

Bill read third time.

The following amendment was proposed by Assemblywoman Pierce:

Amendment No. 1001.

Amend section 1, page 2, line 1, after “2.” by inserting: “*The State Environmental Commission shall adopt regulations:*”

(a) *Establishing standards for the construction of an engineered liner and leachate collection system for all new municipal solid waste landfills and all lateral expansions of existing municipal solid waste landfills if either accepts more than 200 tons per day of solid waste on an annual average; and*

(b) *Requiring the installation of an engineered liner and leachate collection system for all new municipal solid waste landfills and all lateral expansions of existing municipal solid waste landfills if either accepts more than 200 tons per day of solid waste on an annual average.*

3.”

Amend section 1, page 2, lines 10 and 11, by deleting: “~~State-}~~ solid waste.

3.” and inserting: “~~State-~~

~~3-}~~ solid waste.

4.”.

Amend section 1, page 2, line 14, by deleting “4.” and inserting “[4-] 5.”.

Amend the title of the bill, first line, to read as follows:

“AN ACT relating to solid waste; requiring the State Environmental Commission to adopt regulations concerning the construction and installation of liner and leachate collection systems for certain solid waste disposal sites; revising the scope of activity for certain”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

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

Senate Bill No. 235.

Bill read third time.

The following amendment was proposed by Assemblywoman Pierce:

Amendment No. 997.

Amend sec. 2, page 2, line 24, by deleting “*property owners*” and inserting: “*qualified electors who reside*”.

Amend sec. 3, page 2, by deleting lines 30 through 36 and inserting:

“Sec. 3. 1. *On or before the date fixed for the hearing on the dissolution of a hospital district, any qualified elector who resides within the hospital district may protest against the dissolution of the hospital district by filing a written protest with the county clerk of the county in which he resides.*”.

Amend sec. 3, page 2, lines 39 and 44, by deleting: “*owners of property*” and inserting: “*qualified electors who reside*”.

Amend sec. 3, page 3, line 7, by deleting: “*owners of property*” and inserting: “*qualified electors who reside*”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

SECOND READING AND AMENDMENT

Senate Bill No. 386.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 931.

Amend the bill as a whole by deleting sections 1 and 2 and adding:

“Secs. 1 and 2. (Deleted by amendment.)”.

Amend sec. 3, page 2, by deleting line 21 and inserting:

“Sec. 3. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

“Provisional ballot” means a ballot voted by a person”.

Amend the bill as a whole by deleting sections 4 through 6 and adding:

“Secs. 4-6. (Deleted by amendment.)”.

Amend sec. 7, page 4, line 36, by deleting: “*sections 2 and*” and inserting “*section*”.

Amend the bill as a whole by deleting section 13 and adding:

“Sec. 13. (Deleted by amendment.)”.

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

“Sec. 18.5. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

2. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;
- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;

(k) The procedures to be used for canvasses, ties, recounts and contests ~~for~~ , including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;

(l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;

(m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(n) *The procedures to be used for the testing, use and auditing of a mechanical voting system that directly records the votes electronically and that creates a paper record when a voter casts a ballot on the system;*

(o) The procedures to be used for the disposition of absent ballots in case of an emergency;

~~for~~ (p) The forms for applications to register to vote and any other forms necessary for the administration of this title; and

~~for~~ (q) Such other matters as determined necessary by the Secretary of State.

3. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

4. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

(a) Laws and regulations concerning elections in this State;

(b) Interpretations issued by the Secretary of State's Office; and

(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.”.

Amend the bill as a whole by deleting sec. 25 and adding:

“Sec. 25. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 27 and adding:

“Sec. 27. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sections 30 through 37 and adding:

“Secs. 30-37. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 47 and adding:

“Sec. 47. (Deleted by amendment.)”.

Amend sec. 57, page 31, line 34, by deleting: “to the state or” and inserting:

“both to the state ~~for~~ central committee of any major political party and to the”.

Amend sec. 57, page 31, line 35, by deleting “or” and inserting: “~~for~~ , and”.

Amend sec. 57, page 32, by deleting line 10 and inserting: "State, record for ~~that~~ both the state central committee and the county central committee ~~for~~ of the major political party, if requested, and for the".

Amend sec. 57, page 32, line 11, after "committee" by inserting: "of the minor political party, if requested,".

Amend the bill as a whole by deleting sec. 63 and adding:

"Sec. 63. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 73 and adding:

"Sec. 73. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 77 and adding:

"Sec. 77. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 79 and adding:

"Sec. 79. (Deleted by amendment.)".

Amend the bill as a whole by deleting sections 82 through 85 and adding:

"Secs. 82–85. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 88 and adding:

"Sec. 88. (Deleted by amendment.)".

Amend the bill as a whole by deleting sec. 96 and adding:

"Sec. 96. (Deleted by amendment.)".

Amend sec. 122, page 88, by deleting line 24 and inserting:

"Sec. 122. NRS 293.075, 293.12756, 293.233, 293.245, 293.293".

Amend sec. 122, page 88, line 26, by deleting "293C.265,".

Amend the leadlines of repealed sections by deleting the leadlines of NRS 293.272 and 293C.265 and adding the leadline of NRS 293.12756.

Amend the title of the bill by deleting the seventh through seventeenth lines and inserting "making various".

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

The following amendment was proposed by Assemblyman Perkins:

Amendment No. 1002.

Amend the bill as a whole by adding a new section designated sec. 110.5, following sec. 110, to read as follows:

"Sec. 110.5. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *It is unlawful for a person who is elected to any county, city or township office or other office of a political subdivision of this State to solicit or accept any monetary contribution, or to solicit or accept a commitment to make such a contribution, for any political purpose during the period beginning 45 days after the person has been issued a certificate of election to the public office and ending 180 days before the last day to file as a candidate for that office at the next preceding election for that office pursuant to the provisions of NRS 293.177 or 293C.185.*

2. *This section does not prohibit the payment of a salary or other compensation or income to a person who is elected to a public office if it is*

made for services provided as a part of his regular employment or is additional income to which he is entitled.”.

Amend the bill as a whole by adding new sections designated sections 119.2 through 119.8, following sec. 119, to read as follows:

“Sec. 119.2. NRS 241.037 is hereby amended to read as follows:

241.037 1. The Attorney General may sue in any court of competent jurisdiction to have an action taken by a public body declared void or for an injunction against any public body or person to require compliance with or prevent violations of the provisions of this chapter. The injunction:

(a) May be issued without proof of actual damage or other irreparable harm sustained by any person.

(b) Does not relieve any person from criminal prosecution for the same violation.

2. Any person denied a right conferred by this chapter may sue in the district court of the district in which the public body ordinarily holds its meetings or in which the plaintiff resides. A suit may seek to have an action taken by the public body declared void, to require compliance with or prevent violations of this chapter or to determine the applicability of this chapter to discussions or decisions of the public body. The court may order payment of reasonable attorney’s fees and court costs to a successful plaintiff in a suit brought under this subsection.

3. Any suit brought against a public body pursuant to subsection 1 or 2 to require compliance with the provisions of this chapter must be commenced within 120 days after the action objected to was taken by that public body in violation of this chapter. Any such suit brought to have an action declared void must be commenced within 60 days after the action objected to was taken.

4. *A public body or person who violates the provisions of this chapter two or more times within 5 years is liable, in addition to any other penalty or remedy that may be provided by law, for a civil penalty of:*

(a) Not more than \$5,000 for the second offense; and

(b) Not more than \$10,000 for each subsequent offense committed within that 5-year period,

which penalty may be recovered by civil action on complaint of the Attorney General. All money collected as civil penalties pursuant to this subsection must be deposited in the State General Fund.

Sec. 119.4. NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. The Attorney General shall ~~investigate~~ :

(a) *Investigate* and prosecute any violation of this chapter ~~+~~ ; and

(b) *Report to the Commission on Ethics each member of a public body that is convicted of a violation of subsection 1.*

Sec. 119.6. NRS 281.481 is hereby amended to read as follows:

281.481 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.

(b) "Unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established

a policy allowing the use or the use is necessary as a result of emergency circumstances;

- (2) The use does not interfere with the performance of his public duties;
- (3) The cost or value related to the use is nominal; and
- (4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A member of the Legislature shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

11. *A public officer or employee who is a member of a public body shall not attend a meeting of that public body where action is taken in violation of any provision of chapter 241 of NRS if the public officer or employee knows or should have known that the meeting is in violation thereof.*

Sec. 119.8. NRS 281.551 is hereby amended to read as follows:

281.551 1. In addition to any other penalty provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed ~~[\$5,000]~~ \$10,000 for a first willful violation of this chapter;

(b) Not to exceed ~~[\$10,000]~~ \$15,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed ~~[\$25,000]~~ \$30,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281.511, against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization by another person of a financial benefit, the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalty provided by law, by an affirmative vote of two-thirds of the Commission, the Commission may impose on any person who violates any provision of NRS 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The Commission shall not impose a civil penalty for a violation of NRS 294A.345 unless the Commission has made the specific findings required pursuant to subsection 7 of NRS 281.477.

5. If the Commission finds that:

(a) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.

(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.

6. An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a willful violation of a provision of those sections if the public officer or employee:

(a) Relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the

public employee or upon the manual published by the Commission pursuant to NRS 281.471;

(b) Was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and

(c) Took action that was not contrary to a prior published opinion issued by the Commission.

7. In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.

8. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

9. The imposition of a civil penalty pursuant to subsections 1 to 4, inclusive, is a final decision for the purposes of judicial review.

10. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.”.

Amend the title of the bill by deleting the first and second lines and inserting:

“AN ACT relating to government; eliminating various obsolete provisions governing elections; providing for when a candidate for the office”.

Amend the title of the bill, twenty-fourth line, after “expenditures;” by inserting: “prohibiting certain public officers from soliciting or accepting monetary contributions for any political purposes during certain times; providing civil penalties for repeated violations of the Open Meeting Law; making attendance by a member of a public body at a meeting of the public body that violates the Open Meeting Law an ethics violation in certain circumstances; increasing the civil penalties for willful violations of the ethics provisions;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes relating to public office. (BDR 24-311)”.

Assemblywoman Buckley moved the adoption of the amendment.

Remarks by Assemblywoman Buckley.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Assembly Bill No. 500.

Bill read third time.

The following amendment was proposed by Assemblyman Hardy:

Amendment No. 813.

Amend the bill as a whole by deleting sec. 7 and renumbering sections 8 through 15 as sections 7 through 14.

Amend sec. 8, page 8, line 2, by deleting “[293.558,]” and inserting: “293.558 ~~and~~”.

Amend sec. 13, page 10, line 4, by deleting “[293.558,]” and inserting: “293.558 ~~and~~”.

Amend the bill as a whole by deleting sec. 16 and renumbering sections 17 through 45 as sections 15 through 43.

Amend sec. 17, page 12, line 32, by deleting: “18, 19 and 20” and inserting: “16, 17 and 18”.

Amend sec. 22, page 16, line 16, by deleting “[293.558,]” and inserting: “293.558 ~~and~~”.

Amend sec. 23, page 16, line 39, by deleting “19” and inserting “17”.

Amend sec. 24, page 17, line 5, by deleting “19” and inserting “17”.

Amend sec. 25, page 17, line 19, by deleting: “26, 27 and 28” and inserting: “24, 25 and 26”.

Amend sec. 28, page 18, by deleting lines 9 through 22 and inserting:

“Sec. 26. 1. *In addition to complying with the requirements set forth in NRS 294A.120, 294A.125, 294A.200 and 294A.360, if a natural person who is elected to any public office accepts a monetary contribution for any political purpose during the period beginning 45 days after the person has been issued a certificate of election to the public office and ending 180 days before the last day to file as a candidate for that office at the next preceding election for that office pursuant to the provisions of NRS 293.177 or 293C.185, the person shall, for the month after the month in which he received the contribution, report in the form of a list each of the contributions that he received during that month.*

2. *The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.*

3. *The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and for contributions that a contributor has made cumulatively in excess of that amount.*

4. *The report must be filed:*

(a) *With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A candidate may mail or transmit the report to that officer by*

regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(1) On the date it was mailed if it was sent by certified mail.

(2) On the date it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

(b) On or before the 15th day of the month immediately after the month for which the report is made.

5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions pursuant to subsection 4 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.”.

Amend sec. 29, page 18, line 26, by deleting “26” and inserting “24”.

Amend sec. 33, page 23, line 42, by deleting “27” and inserting “25”.

Amend sec. 33, page 24, line 7, by deleting “27” and inserting “25”.

Amend sec. 34, page 24, lines 13, 29 and 45, by deleting “27” and inserting “25”.

Amend sec. 35, page 25, lines 28 and 31, by deleting “27” and inserting “25”.

Amend sec. 36, page 26, line 7, by deleting “27” and inserting “25”.

Amend sec. 37, page 26, line 26, by deleting “27” and inserting: “25 or 26”.

Amend sec. 37, page 26, line 32, by deleting “27” and inserting: “25 or 26”.

Amend sec. 38, page 26, line 42, by deleting “27” and inserting “25”.

Amend sec. 39, page 27, lines 32 and 41, by deleting “27” and inserting “25”.

Amend sec. 41, page 29, line 41, by deleting: “42 and 43” and inserting: “40 and 41”.

Amend sec. 43, page 30, by deleting lines 16 through 23.

Amend sec. 44, page 31, lines 21 and 22, by deleting: “42 and 43” and inserting: “40 and 41”.

Amend sec. 45, page 31, line 26, by deleting: “42 and 43” and inserting: “40 and 41”.

Amend sec. 45, page 31, line 28, by deleting “42” and inserting “40”.

Amend the bill as a whole by deleting sections 46 and 47 and renumbering sections 48 through 61 as sections 44 through 57.

Amend sec. 49, page 36, line 14, by deleting “43” and inserting “41”.

Amend sec. 51, page 37, lines 6, 14, 24, 29, 33, 37 and 40, by deleting “43” and inserting “41”.

Amend sec. 52, page 38, line 18, by deleting “[293.558,]” and inserting: “293.558 [and]”.

Amend sec. 53, page 38, line 32, by deleting “[293.558,]” and inserting: “293.558 [and]”.

Amend sec. 54, page 39, line 2, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 55, page 39, line 18, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 56, page 39, line 32, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 57, page 40, line 2, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 58, page 40, line 16, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 59, page 40, line 32, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend sec. 60, page 41, line 1, by deleting “[293.558,]” and inserting: “293.558 ~~[,]~~ and”.

Amend the bill as a whole by deleting sec. 62 and renumbering sec. 63 as sec. 58.

Amend sec. 63, page 41, line 18, by deleting “61” and inserting “57”.

Amend sec. 63, page 41, by deleting lines 20 through 22 and inserting:

“2. Sections 1, 2, 3, 6 to 17, inclusive, and 19 to 56, inclusive, of this act become effective on October 1, 2005.

3. Sections 4, 5 and 18 of this act become effective on”.

Assemblyman Hardy moved the adoption of the amendment.

Remarks by Assemblyman Hardy.

Assemblymen Buckley, Anderson, and Leslie requested a Roll Call vote on Amendment No. 813 to Assembly Bill No. 500.

Roll call on Amendment No. 813 to Assembly Bill No. 500:

YEAS—15.

NAYS—Anderson, Arberry, Atkinson, Buckley, Claborn, Conklin, Denis, Gerhardt, Giunchigliani, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, McCleary, Munford, Ocegüera, Ohrenschall, Parks, Parnell, Perkins, Pierce, Sibley, Smith—26.

EXCUSED—Christensen.

Amendment lost.

The following amendment was proposed by Assemblywoman Giunchigliani:

Amendment No. 937.

Amend the bill as a whole by deleting sec. 7 and adding:

“Sec. 7. (Deleted by amendment.)”.

Amend sec. 28, page 18, by deleting lines 9 through 11 and inserting:

“Sec. 28. 1. *It is unlawful for a person who is elected to any county, city or township office or other office of a political subdivision of this State to solicit or accept any monetary contribution, or to solicit*”.

Amend sec. 41, page 29, line 41, by deleting: “42 and 43” and inserting: “42, 43 and 43.5”.

Amend sec. 43, page 30, by deleting lines 16 through 23.

Amend the bill as a whole by adding a new section designated sec. 43.5, following sec. 43, to read as follows:

“Sec. 43.5. *In addition to the statements of financial disclosure required pursuant to NRS 281.561, each public officer who was elected to the office of a city or county shall file a statement of financial disclosure not later than 30 days after the public officer has a new source of income required to be reported pursuant to paragraph (b) of subsection 1 of NRS 281.571.*”

Amend sec. 44, page 31, lines 21 and 22, by deleting: “42 and 43” and inserting: “42, 43 and 43.5”.

Amend sec. 45, page 31, line 26, by deleting: “42 and 43” and inserting: “42, 43 and 43.5”.

Amend the bill as a whole by deleting sections 46 and 47 and adding:

“Secs. 46 and 47. (Deleted by amendment.)”.

Amend sec. 49, page 36, line 14, by deleting “section 43” and inserting: “sections 43 and 43.5”.

Amend sec. 51, page 37, lines 6 and 14, after “43” by inserting “or 43.5”.

Amend sec. 51, page 37, lines 24, 29, 33, 37 and 40, after “43” by inserting: “or section 43.5”.

Amend the bill as a whole by deleting sec. 62 and adding:

“Sec. 62. (Deleted by amendment.)”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

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

Senate Bill No. 347.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 1031.

Amend sec. 24, page 13, line 17, by deleting “§1681a,” and inserting “§1681a(p),”.

Amend sec. 29, page 14, by deleting lines 9 and 10 and inserting: “security of electronic transmission.”.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

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

Senate Bill No. 64.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 1020.

Amend the bill as a whole by renumbering sections 1 through 5 as sections 3 through 7 and adding new sections designated sections 1 and 2, following the enacting clause, to read as follows:

“Section 1. NRS 111.1031 is hereby amended to read as follows:

111.1031 1. A nonvested property interest is invalid unless:

(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of a natural person then alive; or

(b) The interest either vests or terminates within ~~{150}~~ 365 years after its creation.

2. A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(a) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of a natural person then alive; or

(b) The condition precedent either is satisfied or becomes impossible to satisfy within ~~{150}~~ 365 years after its creation.

3. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(a) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of a natural person then alive; or

(b) The power is irrevocably exercised or otherwise terminates within ~~{150}~~ 365 years after its creation.

4. In determining whether a nonvested property interest or a power of appointment is valid under paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, the possibility that a child will be born to a person after his or her death is disregarded.

5. If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to disallow the vesting or termination of any interest or trust beyond, seeks to postpone the vesting or termination of any interest or trust until, or seeks to operate in effect in any similar fashion upon, the later of:

(a) The expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; or

(b) The expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement,

that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

Sec. 2. NRS 111.1035 is hereby amended to read as follows:

111.1035 Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the ~~{150}~~ 365 years allowed by paragraph (b) of subsection 1, paragraph (b) of subsection 2 or paragraph (b) of subsection 3 of NRS 111.1031 if:

1. A nonvested property interest or a power of appointment becomes invalid under NRS 111.1031;

2. A class gift is not but might become invalid under NRS 111.1031 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

3. A nonvested property interest that is not validated by paragraph (a) of subsection 1 of NRS 111.1031 can vest but not within ~~{150}~~ 365 years after its creation.”.

Amend sec. 5, page 7, by deleting line 13 and inserting:

“Sec. 5. 1. This section and sections 3 to 6, inclusive, of this act become effective on July 1, 2005.

2. Sections 1 and 2 of this act become effective at 12:01 a.m. on October 1, 2005.”.

Amend the title of the bill, eleventh line, after “grantor;” by inserting: “extending the time within which a nonvested property interest must vest or terminate;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning conveyances of property. (BDR 10-539)”.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

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

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

Assembly in recess at 1:09 p.m.

ASSEMBLY IN SESSION

At 1:11 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 175, 411, and 499 be taken from the General File and placed at the top of General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 175.

Bill read third time.

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

Amendment No. 968.

Amend sec. 2, page 2, by deleting lines 4 through 6 and inserting: “Nevada Adult Mental Health Services the sum of \$7,050,938.”.

Amend sec. 2, page 2, by deleting lines 15 and 16 and inserting:

“4. Any remaining balance of the appropriation made by subsection 1 must not be committed”.

Amend sec. 8, page 4, by deleting line 22 and inserting:

“Sec. 8. 1. This section and section 2 of this act become effective upon passage and approval.

2. Sections 1 and 3 to 7, inclusive, of this act become effective on July 1, 2005.”.

Assemblywoman Leslie moved the adoption of the amendment.

Remarks by Assemblywoman Leslie.

Amendment adopted.

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

Assembly Bill No. 411.

Bill read third time.

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

Amendment No. 996.

Amend section 1, page 1, line 3, by deleting “*shall*” and inserting: “*shall, in consultation with the State Board,*”.

Amend section 1, page 1, line 6, by deleting “*new*”.

Amend section 1, page 1, line 7, after “2007.” by inserting: “*To the extent feasible, the Department of Public Safety and the State Board shall prescribe the three point restraint system as the appropriate safety restraint.*”.

Amend the bill as a whole by deleting sec. 3 and renumbering sections 4 through 6 as sections 3 through 5.

Amend sec. 4, page 5, line 12, by deleting “*1,*” and inserting: “*1 and within the amount of money appropriated for this purpose,*”.

Amend sec. 4, page 5, line 13, by deleting “*new*”.

Amend sec. 4, page 5, line 19, by deleting “*new*”.

Amend sec. 5, page 6, lines 24 and 31, by deleting “*new*”.

Amend the bill as a whole by adding a new section designated sec. 6, following sec. 6, to read as follows:

“Sec. 6. On or before September 1, 2006, the State Board of Education shall compile information from each school district that provides an estimate of the financial costs for each school district to comply with the provisions of this act. The compilation must be included in the biennial budgetary request prepared by the Department of Education.”.

Amend sec. 7, page 8, line 27, by deleting “*shall*” and inserting: “*shall, in consultation with the State Board of Education,*”.

Amend sec. 7, page 8, line 30, by deleting “*section 7*” and inserting: “*sections 6 and 7*”.

Amend sec. 7, page 8, line 35, by deleting “*6,*” and inserting “*5,*”.

Amend the title of the bill by deleting the fourth and fifth lines and inserting: “*used for the transportation of pupils; requiring under certain*”.

circumstances that school buses which are purchased on or after July 1, 2007, to”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

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

Assembly Bill No. 499.

Bill read third time.

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

Amendment No. 965.

Amend the bill as a whole by deleting sections 10 through 16 and renumbering sections 17 and 18 as sections 10 and 11.

Amend the bill as a whole by deleting sec. 19 and renumbering sections 20 and 21 as sections 12 and 13.

Amend the bill as a whole by deleting sections 22 through 28 and renumbering sections 29 and 30 as sections 14 and 15.

Amend sec. 30, page 21, line 1, by deleting “10” and inserting “10,”.

Amend sec. 30, page 21, by deleting line 2 and inserting: “11, 12 and 14 of this act become effective”.

Amend sec. 30, page 21, line 4, by deleting “20” and inserting “12”.

Amend sec. 30, page 21, line 6, by deleting “21” and inserting “13”.

Amend the title of the bill by deleting the sixth through tenth lines and inserting: “revising the provisions relating to powers of a chairman of an election board; providing that a district”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

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

Assembly Bill No. 209.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 209:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 209 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 310.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 310:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 310 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 413.

Bill read third time.

Remarks by Assemblyman Hettrick.

Roll call on Assembly Bill No. 413:

YEAS—40.

NAYS—None.

NOT VOTING—Angle.

EXCUSED—Christensen.

Assembly Bill No. 413 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 514.

Bill read third time.

Roll call on Assembly Bill No. 514:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 514 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Senate Bills Nos. 18, 20, 28, 44, 46, 52, 67, 80, 82, 110, 115, 118, 153, 181, 194, 212, 238, 252, 256, 280, 281, 282, 302, 338, 346, 358, 365, and 422 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Ocegüera moved that Senate Bill No. 17 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

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

Assembly in recess at 1:25 p.m.

ASSEMBLY IN SESSION

At 1:33 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 29.

Bill read third time.

Roll call on Senate Bill No. 29:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Senate Bill No. 29 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 83.

Bill read third time.

Roll call on Senate Bill No. 83:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Senate Bill No. 83 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 122.

Bill read third time.

Remarks by Assemblymen Parks, Anderson, Arberry, Atkinson, Carpenter, Denis, Gerhardt, Giunchigliani, Goicoechea, Grady, Holcomb, Koivisto, Leslie, Manendo, McClain, Munford, Ocegüera, Ohrenschall, and Parnell.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Potential conflict of interest declared by Assemblymen Parks, Anderson, Arberry, Atkinson, Carpenter, Denis, Gerhardt, Giunchigliani, Goicoechea, Grady, Holcomb, Koivisto, Leslie, Manendo, McClain, Munford, Ocegüera, Ohrenschall, Parnell, and Mr. Speaker.

Roll call on Senate Bill No. 122:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Senate Bill No. 122 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 125

Bill read third time.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 125 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 150.

Bill read third time.

Remarks by Assemblywoman Gerhardt.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Potential conflict of interest declared by Mr. Speaker.

Roll call on Senate Bill No. 150:

YEAS—40.

NAYS—McCleary.

EXCUSED—Christensen.

Senate Bill No. 150 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 163.

Bill read third time.

Remarks by Assemblywomen Giunchigliani and Angle.

Roll call on Senate Bill No. 163:

YEAS—25.

NAYS—Allen, Angle, Carpenter, Denis, Gansert, Goicoechea, Grady, Hardy, Holcomb, Mabey, Marvel, McCleary, Seale, Sherer, Sibley, Weber—16.

EXCUSED—Christensen.

Senate Bill No. 163 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 170.

Bill read third time.

Remarks by Assemblyman Hettrick.

Roll call on Senate Bill No. 170:

YEAS—39.

NAYS—Anderson, Angle—2.

EXCUSED—Christensen.

Senate Bill No. 170 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 263.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Senate Bill No. 263:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Senate Bill No. 263 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 287.

Bill read third time.

Remarks by Assemblyman Mabey.

Roll call on Senate Bill No. 287:

YEAS—42.

NAYS—None.

Senate Bill No. 287 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 290.

Bill read third time.

The following amendment was proposed by Assemblyman Parks:

Amendment No. 880.

Amend the bill as a whole by renumbering sections 1 through 4 as sections 2 through 5 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 482.367008 is hereby amended to read as follows:

482.367008 1. As used in this section, “special license plate” means:

(a) A license plate that the Department has designed and prepared pursuant to NRS 482.367002 in accordance with the system of application and petition described in that section; and

(b) A license plate approved by the Legislature that the Department has designed and prepared pursuant to NRS 482.3747, 482.37903, 482.37905, 482.37917, 482.379175, 482.37918, 482.379185, 482.37919, 482.3792, 482.3793, 482.37933, 482.37934, 482.37935, 482.379355, 482.379365, 482.37937, 482.37938 or 482.37945.

2. Notwithstanding any other provision of law to the contrary, the Department shall not, at any one time, issue more than ~~{25}~~ 30 separate designs of special license plates.

3. Except as otherwise provided in this subsection, on October 1 of each year the Department shall assess the viability of each separate design of special license plate that the Department is currently issuing by determining the total number of validly registered motor vehicles to which that design of special license plate is affixed. The Department shall not determine the total number of validly registered motor vehicles to which a particular design of special license plate is affixed if:

(a) The particular design of special license plate was designed and prepared by the Department pursuant to NRS 482.367002; and

(b) On October 1, that particular design of special license plate has been available to be issued for less than 12 months.

4. Except as otherwise provided in subsection 6, if, on October 1, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or

(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,

the Director shall provide notice of that fact in the manner described in subsection 5.

5. The notice required pursuant to subsection 4 must be provided:

(a) If the special license plate generates financial support for a cause or charitable organization, to that cause or charitable organization.

(b) If the special license plate does not generate financial support for a cause or charitable organization, to an entity which is involved in promoting the activity, place or other matter that is depicted on the plate.

6. If, on December 31 of the same year in which notice was provided pursuant to subsections 4 and 5, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or

(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,

the Director shall, notwithstanding any other provision of law to the contrary, issue an order providing that the Department will no longer issue that particular design of special license plate. Such an order does not require existing holders of that particular design of special license plate to surrender their plates to the Department and does not prohibit those holders from renewing those plates.”.

Amend sec. 4, page 5, line 3, by deleting: “1 and 2” and inserting: “1, 2 and 3”.

Amend sec. 4, page 5, line 5, by deleting “3” and inserting “4”.

Amend the title of the bill, first line, after “vehicles;” by inserting: “increasing the number of designs allowed for special license plates;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning issuance of special license plates. (BDR 43-223)”.

Assemblyman Parks moved the adoption of the amendment.

Remarks by Assemblymen Parks and Ocegüera.

Amendment lost.

Roll call on Senate Bill No. 290:

YEAS—41.

NAYS—Giunchigliani.

Senate Bill No. 290 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 307.

Bill read third time.

Roll call on Senate Bill No. 307:

YEAS—42.

NAYS—None.

Senate Bill No. 307 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 321.

Bill read third time.

Roll call on Senate Bill No. 321:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 326.

Bill read third time.

Roll call on Senate Bill No. 326:

YEAS—40.

NAYS—Leslie, Pierce—2.

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

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Concurrent Committee on Ways and Means, to which were referred Assembly Bills Nos. 222 and 376, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY, JR., *Chairman*

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 222 and 376 just reported out of committee, be placed at the top of the General File for the current legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 222.

Bill read third time.

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

Amendment No. 1018.

Amend sec. 3, page 3, line 23, after “sections.” by inserting: “*The Legislative Counsel Bureau may accept gifts, grants and other sources of money to provide financial assistance in expanding the number of school districts selected for reviews pursuant to sections 2 to 11, inclusive, of this act.*”.

Amend sec. 6, page 6, lines 28 and 29, by deleting “*a program*” and inserting: “*the plan for funding the rebuilding of older schools and the programs*”.

Amend sec. 6, page 6, line 40, by deleting “*public;*” and inserting: “*public, including, without limitation, surveys of the residents of the community;*”.

Amend the bill as a whole by deleting sec. 12 and adding a new section designated sec. 12, following sec. 11, to read as follows:

“Sec. 12. 1. There is hereby appropriated from the State General Fund to the Legislative Counsel Bureau the sum of \$300,000 for reviews of certain school districts in accordance with sections 2 to 11, inclusive, of this act.

2. Notwithstanding the provisions of section 4 of this act to the contrary, the Legislative Auditor shall issue a request for proposals for reviews of school districts selected by the Legislative Auditor after consultation with the Legislative Commission.

3. Each school district selected by the Legislative Auditor, in consultation with the Legislative Commission, pursuant to subsection 2 must undergo a review in accordance with sections 2 to 11, inclusive, of this act during the 2005–2006 interim.

4. After the initial reviews, the provisions of section 4 of this act regarding the selection of school districts for review apply.

5. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2007, and must be reverted to the State General Fund on or before September 21, 2007.”.

Amend the title of the bill, page 2, sixth line, after “circumstances;” by inserting: “making an appropriation;”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

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

Assembly Bill No. 376.

Bill read third time.

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

Amendment No. 987.

Amend section 1, pages 2 and 3, by deleting lines 3 through 6 on page 2 and lines 1 through 4 on page 3, and inserting:

“1. The Patriot Relief Account is hereby created as a special account in the State General Fund.

2. The money in the Patriot Relief Account does not lapse to the State General Fund at the end of any fiscal year. The interest and income earned on the money in the Patriot Relief Account, after deducting any applicable charges, must be credited to the Account. All claims against the Patriot Relief Account must be”.

Amend section 1, page 3, line 7, by deleting “Fund.” and inserting “Account.”.

Amend section 1, page 3, lines 8 and 22, by deleting “Fund” and inserting “Account”.

Amend the bill as a whole by deleting sec. 2 and renumbering sections 3 through 11 as sections 2 through 10.

Amend sec. 4, page 4, line 16, by deleting: “5 and 6” and inserting: “4 and 5”.

Amend sec. 5, page 4, by deleting lines 22 through 26 and inserting:

“1. A member of the Nevada National Guard who is engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5).”.

Amend sec. 6, page 4, lines 34, 39 and 43, by deleting “5” and inserting “4”.

Amend sec. 7, page 5, line 8, by deleting: “8 and 9” and inserting: “7 and 8”.

Amend sec. 8, page 5, by deleting lines 14 through 18 and inserting:

“1. A member of the Nevada National Guard who is engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5).”.

Amend sec. 9, page 5, lines 26, 31 and 35, by deleting “8” and inserting “7”.

Amend sec. 10, page 6, by deleting lines 2 and 3 and inserting: “Fund to the Patriot Relief Account created pursuant to section 1 of this act.”.

Amend sec. 10, page 6, lines 4 and 5, by deleting “\$2,500,000” and inserting “\$500,000”.

Amend the title of the bill by deleting the second through ninth lines and inserting: “Relief Account to provide reimbursements to certain members of the Nevada National Guard for the cost of premiums paid for coverage under certain policies of group life insurance and certain textbooks and to provide certain other monetary relief; providing for additional pay for state officers and”.

Assemblywoman Giunchigliani moved the adoption of the amendment.

Remarks by Assemblywoman Giunchigliani.

Amendment adopted.

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

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 328 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 335.

Bill read third time.

Roll call on Senate Bill No. 335:

YEAS—41.

NAYS—Angle.

Senate Bill No. 335 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 368.

Bill read third time.

Roll call on Senate Bill No. 368:

YEAS—42.

NAYS—None.

Senate Bill No. 368 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 384.

Bill read third time.

Roll call on Senate Bill No. 384:

YEAS—42.

NAYS—None.

Senate Bill No. 384 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 389.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Senate Bill No. 389:

YEAS—41.

NAYS—McCleary.

Senate Bill No. 389 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 398.

Bill read third time.

Roll call on Senate Bill No. 398:

YEAS—42.

NAYS—None.

Senate Bill No. 398 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 401.

Bill read third time.

Roll call on Senate Bill No. 401:

YEAS—42.

NAYS—None.

Senate Bill No. 401 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 410.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Senate Bill No. 410:

YEAS—42.

NAYS—None.

Senate Bill No. 410 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved to rescind the action whereby Senate Bill No. 338 was taken from General File and placed on General File for the next Legislative Day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 338.

Bill read third time.

Remarks by Assemblymen Buckley, Seale, Hettrick, Allen, Christensen, Conklin, Gansert, Giunchigliani, Goicoechea, Mabey, Ocegüera, and Sibley.

Potential conflict of interest declared by Assemblymen Hettrick, Allen, Christensen, Conklin, Gansert, Giunchigliani, Goicoechea, Mabey, Ocegüera, and Sibley.

Roll call on Senate Bill No. 338:

YEAS—30.

NAYS—Angle, Christensen, Gansert, Goicoechea, Hardy, Hettrick, Holcomb, Kirkpatrick, Marvel, Seale, Sherer, Weber—12.

Senate Bill No. 338 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 411.

Bill read third time.

Roll call on Senate Bill No. 411:

YEAS—42.

NAYS—None.

Senate Bill No. 411 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 415.

Bill read third time.

Roll call on Senate Bill No. 415:

YEAS—41.

NAYS—Carpenter.

Senate Bill No. 415 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 421.

Bill read third time.

Roll call on Senate Bill No. 421:

YEAS—42.

NAYS—None.

Senate Bill No. 421 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 432.

Bill read third time.

Roll call on Senate Bill No. 432:

YEAS—42.

NAYS—None.

Senate Bill No. 432 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 444.

Bill read third time.

Roll call on Senate Bill No. 444:

YEAS—42.

NAYS—None.

Senate Bill No. 444 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 445.

Bill read third time.

Remarks by Assemblywoman Gerhardt.

Roll call on Senate Bill No. 445:

YEAS—28.

NAYS—Allen, Angle, Christensen, Gansert, Goicoechea, Grady, Hardy, Hettrick, Holcomb, Mabey, Marvel, Seale, Sherer, Weber—14.

Senate Bill No. 445 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 450.

Bill read third time.

Roll call on Senate Bill No. 450:

YEAS—42.

NAYS—None.

Senate Bill No. 450 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 452.

Bill read third time.

Roll call on Senate Bill No. 452:

YEAS—42.

NAYS—None.

Senate Bill No. 452 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 453.

Bill read third time.

Remarks by Assemblymen Sibley and Anderson.

Roll call on Senate Bill No. 453:

YEAS—42.

NAYS—None.

Senate Bill No. 453 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 460.

Bill read third time.

Roll call on Senate Bill No. 460:

YEAS—42.

NAYS—None.

Senate Bill No. 460 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 466 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 481.

Bill read third time.

Roll call on Senate Bill No. 481:

YEAS—42.

NAYS—None.

Senate Bill No. 481 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 488.

Bill read third time.

Roll call on Senate Bill No. 488:

YEAS—41.

NAYS—Pierce.

Senate Bill No. 488 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 489.

Bill read third time.

Roll call on Senate Bill No. 489:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 51.

The following Senate amendment was read:

Amendment No. 801.

Amend the bill as a whole by renumbering sections 1 through 11 as sections 2 through 12 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 125.480 is hereby amended to read as follows:

125.480 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. ~~[If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.]~~

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly ~~[pursuant to NRS 125.490 or to either parent.]~~, if the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the child.

(b) To both parents jointly, or to either parent, according to the best interest of the child, based upon the best judgment of the court considering the facts of the case and subject to such conditions and limitations as the court deems equitable. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application. ~~[When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.]~~

~~(b)~~ (c) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

~~(c)~~ (d) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

~~(d)~~ (e) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider ~~[.]~~ and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody. ~~[.]~~

(b) Any nomination by a parent or a guardian for the child. ~~[.] and [.]~~

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) The ability of each parent to prioritize the needs of the child.

(l) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the

perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, "domestic violence" means the commission of any act described in NRS 33.018."

Amend section 1, page 2, line 2, by deleting: "2 to 7," and inserting: "3 to 8,".

Amend sec. 3, page 3, lines 13 and 32, by deleting "2" and inserting "3".

Amend sec. 4, page 4, line 6, by deleting "2" and inserting "3".

Amend sec. 5, page 4, line 16, by deleting "2" and inserting "3".

Amend sec. 5, page 4, line 22, by deleting "6" and inserting "7".

Amend sec. 5, page 4, line 26, by deleting "*section 2*" and inserting "*section 3*".

Amend sec. 5, page 4, line 28, by deleting "2" and inserting "3".

Amend sec. 5, page 4, line 30, by deleting "6" and inserting "7".

Amend sec. 5, page 4, line 34, by deleting "*section 2*" and inserting "*section 3*".

Amend sec. 5, page 4, line 38, by deleting "7" and inserting "8".

Amend sec. 6, page 4, line 41, by deleting "2" and inserting "3".

Amend sec. 6, page 5, line 1, by deleting "*11*" and inserting "*12*".

Amend sec. 7, page 5, line 8, by deleting "2" and inserting "3".

Amend sec. 8, page 5, line 36, by deleting: "2 to 7," and inserting: "3 to 8,".

Amend sec. 9, page 6, line 12, by deleting: “5 or 7” and inserting: “6 or 8”.

Amend sec. 9, page 6, line 17, by deleting “5” and inserting “6”.

Amend sec. 9, page 6, line 19, by deleting “11” and inserting “12”.

Amend sec. 10, page 6, lines 30 and 31, by deleting: “2 to 7,” and inserting: “3 to 8.”

Amend sec. 11, page 6, line 41, by deleting “2” and inserting “3”.

Amend sec. 11, page 6, line 43, by deleting “4” and inserting “5”.

Amend sec. 11, page 7, line 3, by deleting “4” and inserting “5”.

Amend the bill as a whole by adding a new section designated sec. 13 and the text of the repealed section, following sec. 11, to read as follows:

“Sec. 13. NRS 125.490 is hereby repealed.

TEXT OF REPEALED SECTION

125.490 Joint Custody.

1. There is a presumption, affecting the burden of proof, that joint custody would be in the best interest of a minor child if the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage.

2. The court may award joint legal custody without awarding joint physical custody in a case where the parents have agreed to joint legal custody.

3. For assistance in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted.”

Amend the title of the bill, first line, by deleting “adoption;” and inserting: “domestic relations; revising the provisions relating to the determination of custody of a minor after the parents’ separation or dissolution of marriage;”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes to provisions relating to domestic relations. (BDR 11-457)”.

Assemblyman Anderson moved that the Assembly not concur in the Senate amendment to Assembly Bill No. 51.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 395.

The following Senate amendment was read:

Amendment No. 708.

Amend section 1, page 2, by deleting lines 6 and 7 and inserting: “*misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.*”

3. *In addition to any criminal penalty imposed pursuant to subsection 2, a person who violates the provisions of this section is subject to a civil*

penalty in an amount not to exceed \$5,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

4. *For the purposes of this section, a degree or honorary”.*

Amend section 1, page 2, line 27, by deleting “4.” and inserting “5.”.

Amend sec. 3, page 3, by deleting lines 35 and 36 and inserting: *“misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.*

3. *In addition to any criminal penalty imposed pursuant to subsection 2, a person who violates the provisions of this section is subject to a civil penalty in an amount not to exceed \$5,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

4. *For the purposes of this section, a degree or honorary”.*

Amend sec. 3, page 4, line 7, by deleting “4.” and inserting “5.”.

Amend sec. 4, page 4, line 13, by deleting “file” and inserting “[file] files”.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 395.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 501.

The following Senate amendment was read:

Amendment No. 706.

Amend sec. 9, page 9, line 8, after “\$50,000.” by inserting: *“The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this subsection. The standards must include, without limitation, provisions requiring the Board to consider:*

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.”.

Amend sec. 9, page 9, by deleting lines 30 through 32 and inserting: *“NRS 624.341 or 624.710 plus interest at a rate that is equal to the prime rate at the largest bank in this State, as determined by the Commissioner of Financial Institutions on January 1 or July 1, as appropriate, immediately preceding the date of the order imposing the administrative fine, plus 4 percent, must be paid to the Board before the issuance or renewal of a license to engage in the business of contracting in this State. The interest*

must be collected from the date of the order until the date the administrative fine is paid.”.

Amend sec. 12, page 11, by deleting line 21 and inserting:

“2. ~~{An}~~ The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section . ~~{is}~~ The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

3. An administrative fine imposed pursuant to this section is in”.

Amend sec. 12, page 11, line 23, by deleting “3.” and inserting “~~{3}~~ 4.”.

Amend sec. 12, page 11, line 26, by deleting “4.” and inserting “~~{4}~~ 5.”.

Amend the title of the bill, tenth line, after “violations;” by inserting: “requiring the Board to establish standards for use by the Board in determining the amount of certain administrative fines;”.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 501.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 15.

The following Senate amendment was read:

Amendment No. 790.

Amend section 1, page 2, by deleting lines 23 and 24 and inserting: “Heritage Trust Account an amount of money not greater than 75 percent of the money deposited in the Account pursuant to subsection 2 during the previous year and the total amount of interest earned on the money in the Account during the previous”.

Amend the title of the bill, fourth line, after “State;” by inserting: “authorizing the expenditure of certain annual deposits in the Account;”.

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 15.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assemblyman Ocegüera moved that the Assembly recess until 5:45 p.m.

Motion carried.

Assembly in recess at 2:45 p.m.

ASSEMBLY IN SESSION

At 5:57 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Education, to which was referred Senate Bill No. 32, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Senate Bill No. 214, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chairman*

Mr. Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 262, 479, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 267, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 356, 467, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID PARKS, *Chairman*

Mr. Speaker:

Your Committee on Growth and Infrastructure, to which was referred Senate Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD PERKINS, *Chairman*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chairman*

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Ocegüera moved that Senate Bills Nos. 32, 214, 262, 267, 356, 394, 458, 467, 477, and 479 just reported out of committee, be placed on the Second Reading File for the current Legislative Day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 32.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 930.

Amend the bill as a whole by renumbering sec. 3 as sec. 5 and adding new sections designated sections 3 and 4, following sec. 2, to read as follows:

“Sec. 3. The provisions of section 1 of this act apply prospectively and do not affect, impair or eliminate any existing obligation of the Board of Regents to pay refunds to students who were charged tuition but who were bona fide residents of the State of Nevada for at least 6 months before matriculation between 1995 and spring of 2004 that was established by the Board of Regents at its meeting which was held on March 18–19, 2004.

Sec. 4. Notwithstanding any provision of section 1 of this act to the contrary, each student who is a resident of the State of Nevada for at least 6 months but less than 12 months before the first day of instruction for the fall semester of 2005 at the applicable institution within the Nevada System of Higher Education shall be deemed a “bona fide resident” for purposes of that section.”.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

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

Senate Bill No. 214.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 1022.

Amend sec. 17, page 19, by deleting lines 36 and 37 and inserting: “*involvement accords to be used by all public schools in this State. The*”.

Amend sec. 17, page 19, line 38, after “*educational*” by inserting “*involvement*”.

Amend sec. 17, page 20, by deleting lines 35 through 41 and inserting:

“3. *Each educational involvement accord must be accompanied by, without limitation:*

(a) *Information describing how the parent or legal guardian may contact the pupil’s teacher and the principal of the school in which the pupil is enrolled;*

(b) *The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;*

(c) *The homework and grading policies of the pupil’s teacher or school;*

(d) *Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;*

(e) *Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;*

(f) *The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;*

(g) *The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;*

(h) *The classroom rules and policies;*

(i) *The dress code of the school, if any;*

(j) *The availability of assistance to parents who have limited proficiency in the English language;*

(k) *Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;*

(l) *Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and*

(m) *The code of honor relating to cheating prescribed pursuant to section 17.5 of this act.*

4. *The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:*

(a) *Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and*

(b) *Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord."*

Amend sec. 17, page 20, line 42, by deleting "4." and inserting "5."

Amend sec. 17, pages 20 and 21, by deleting line 45 on page 20 and line 1 on page 21 and inserting: *"involvement accord of each public school in the school district. The board of trustees of a"*

Amend sec. 17, page 21, line 6, by deleting "5." and inserting "6."

Amend the bill as a whole by adding a new section designated sec. 17.5, following sec. 17, to read as follows:

"Sec. 17.5. 1. *The Department shall prescribe by regulation a written policy that establishes a code of honor for pupils relating to cheating on examinations and course work. The policy must be developed in consultation with the boards of trustees of school districts, the governing bodies of charter schools, educational personnel employed by school districts and charter schools, and local associations and organizations of parents whose children are enrolled in public schools throughout this State.*

2. *The policy must include, without limitation, a definition of cheating that clearly and concisely informs pupils which acts constitute cheating for purposes of the code of honor.*

3. *On or before July 1 of each year, the Department shall:*

(a) *Provide a copy of the code of honor to the board of trustees of each school district and the governing body of each charter school.*

(b) *Review and amend the code of honor as necessary.*

4. *Copies of the code of honor must be made available for inspection at each public school located within a school district, including, without limitation, each charter school, in an area on the grounds of the school that is open to the public.”.*

Amend the title of the bill by deleting the fifth through eighth lines and inserting: “accountability; requiring the Department of Education to prescribe an educational involvement accord for use in all public schools; requiring the Department of Education to prescribe a code of honor relating to cheating; and providing other matters properly relating”.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

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

Senate Bill No. 262.

Bill read second time.

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

Amendment No. 907.

Amend section 1, page 1, line 8, by deleting: “*is located along*” and inserting “*adjoins*”.

Amend section 1, page 1, line 11, after “*Transportation*” by inserting: “*pursuant to chapter 410 of NRS*”.

Amend section 1, page 2, line 2, after “*Transportation*” by inserting: “*pursuant to chapter 410 of NRS*”.

Amend section 1, page 2, line 6, after “*structure*” by inserting: “*pursuant to the applicable local ordinances in existence at that time*”.

Amend section 1, page 2, line 17, after “*Transportation*” by inserting: “*pursuant to chapter 410 of NRS*”.

Amend sec. 3, page 3, line 22, by deleting: “*is located along*” and inserting “*adjoins*”.

Amend sec. 3, page 3, lines 24 and 30, after “*county*” by inserting: “*pursuant to chapter 278 of NRS*”.

Amend sec. 3, page 3, line 35, after “*structure*” by inserting: “*pursuant to the applicable local ordinances in existence at that time*”.

Amend sec. 3, page 4, line 1, after “*county*” by inserting: “*pursuant to chapter 278 of NRS*”.

Assemblyman McCleary moved the adoption of the amendment.

Remarks by Assemblyman McCleary.

Amendment adopted.

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

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

Assembly in recess at 6:04 p.m.

ASSEMBLY IN SESSION

At 6:05 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman McCleary moved that Senate Bill No. 267 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Remarks by Assemblyman McCleary.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 356.

Bill read second time.

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

Amendment No. 906.

Amend the bill as a whole by renumbering sections 1 and 2 as sections 2 and 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

"Section 1. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, any:

1. *Computer equipment;*
2. *Article of clothing, the sales price of which does not exceed \$1,000;*
- and*
3. *School supply,*
sold from August 26, 2005, to August 28, 2005, inclusive."

Amend the bill as a whole by renumbering sections 3 through 15 as sections 7 through 19 and adding new sections designated sections 4 through 6, following sec. 2, to read as follows:

"Sec. 4. NRS 374.120 is hereby amended to read as follows:

374.120 1. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer , ~~for~~ that if

applicable it will not be added to the selling price of the property sold , or that if added it or any part thereof will be refunded.

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

Sec. 5. NRS 374.210 is hereby amended to read as follows:

374.210 It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer , ~~for~~ that *if applicable* it will not be added to the selling price of the property sold , or that if added it or any part thereof will be refunded.

Sec. 6. NRS 374.265 is hereby amended to read as follows:

374.265 “Exempted from the taxes imposed by this chapter,” as used in NRS 374.265 to 374.355, inclusive, *and section 1 of this act* means exempted from the computation of the amount of taxes imposed.”.

Amend sec. 15, page 8, by deleting lines 39 through 45 and inserting:

“Sec. 19. 1. This section and sections 1, 4, 5 and 6 of this act become effective upon passage and approval.

2. Sections 7 to 17, inclusive, and subsection 2 of section 18 of this act become effective on October 1, 2005.

3. Sections 2 and 3 and subsection 1 of section 18 of this act become effective on January 1, 2007, only if the proposal submitted pursuant to sections 10 to 14, inclusive, of this act is not approved by the voters at the General Election on November 7, 2006.

4. Sections 1, 4, 5 and 6 of this act expire by limitation on August 31, 2005.”.

Amend the title of the bill by deleting the first line and inserting:

“AN ACT relating to taxation; prescribing a sales tax holiday from certain sales and use taxes for certain sales of computer equipment, clothing and school supplies; revising the provisions governing the”.

Amend the summary of the bill to read as follows:

“SUMMARY—Revises provisions governing amount of sales and use taxes due on certain retail sales. (BDR 32-1106)”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

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

Senate Bill No. 394.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 1029.

Amend the bill as a whole by renumbering sections 23 through 27 as sections 24 through 28 and adding a new section designated sec. 23, following sec. 22, to read as follows:

“Sec. 23. NRS 361.530 is hereby amended to read as follows:

361.530 ~~[1.—Except as otherwise provided in this section, on]~~ On all money collected from personal property tax by the several county assessors and county treasurers, there must be reserved and paid into the county treasury, for the benefit of the general fund of their respective counties, by the county assessor or county treasurer, a percentage commission of ~~[8]~~ 6 percent on the gross amount of collections from personal property tax.

~~[2.—One quarter of the commission reserved pursuant to subsection 1 must be accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.]”.~~

Amend the bill as a whole by renumbering sections 28 through 39 as sections 42 through 53 and adding new sections designated sections 29 through 41, following sec. 27, to read as follows:

“Sec. 29. The Legislature hereby finds and declares that because of the shortage of real property available to the urban and rural communities in Nevada, it is in the best interests of the people of the State of Nevada to encourage the development of property as golf courses so as to preserve open space in both residential and commercial areas of development.

Sec. 30. Chapter 361A of NRS is hereby amended by adding thereto the provisions set forth as sections 31 and 32 of this act.

Sec. 31. 1. “Golf course” means:

(a) Real property that may be used for golfing or golfing practice by the public or by the members and guests of a private club; and

(b) Improvements to that real property, including, without limitation, turf, bunkers, trees, irrigation, lakes, lake liners, bridges, practice ranges, golf greens, golf tees, paths and trails.

2. The term does not include:

(a) A commercial golf driving range that is not operated in conjunction with a golf course.

(b) A clubhouse, pro shop, restaurant or other building that is associated with a golf course.

Sec. 32. 1. For the purposes of NRS 361A.220, the value for open-space use of real property used as a golf course in a fiscal year is equal to the sum of:

(a) An amount equal to \$2,860 per acre of real property used as the golf course multiplied by 1 plus the percentage change in the Consumer Price Index (All Items) for July 1 of the current year as compared to July 1, 2004; and

(b) The value of the improvements made to the real property before that fiscal year as measured by the cost of those improvements adjusted by obsolescence.

2. The Nevada Tax Commission shall establish a manual for the assessment of improvements made to real property used as a golf course. The manual must require:

(a) *The use of such standards and modifiers, as published or furnished by the Marshall and Swift Publication Company, as the Nevada Tax Commission determines to be applicable; and*

(b) *For the purpose of determining obsolescence, the consideration of such factors as the Nevada Tax Commission determines to be appropriate. Those factors must include a factor for golf courses that are not used on a consistently frequent basis each month of the year, which is based upon the actual number of rounds of golf played on the golf course in relation to the number of rounds that could have been played under optimum conditions.*

Sec. 33. NRS 361A.010 is hereby amended to read as follows:

361A.010 As used in this chapter, the terms defined in NRS 361A.020 to 361A.065, inclusive, *and section 31 of this act* have the meanings ascribed to them in those sections except where the context otherwise requires.

Sec. 34. NRS 361A.040 is hereby amended to read as follows:

361A.040 “Open-space real property” means:

1. Land:

(a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; and

(b) Devoted exclusively to open-space use.

2. The improvements on the land *described in subsection 1 that is* used primarily to support the open-space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

3. *Land that is used as a golf course.*

Sec. 35. NRS 361A.050 is hereby amended to read as follows:

361A.050 “Open-space use” means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the Department of Cultural Affairs. *The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land.*

Sec. 36. NRS 361A.090 is hereby amended to read as follows:

361A.090 1. It is the intent of the Legislature to:

(a) Constitute agricultural and open-space real property as a separate class for taxation purposes; and

(b) Provide a separate plan for:

(1) Appraisal and valuation of such property for assessment purposes; and

(2) Partial deferred taxation of such property with tax recapture as provided in NRS 361A.280 and 361A.283.

2. The Legislature hereby declares that it is in the best interest of the State to maintain, preserve, conserve and otherwise continue in existence

adequate agricultural and open-space lands and the vegetation thereon to assure continued public health and the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the State and its citizens.

3. *The Legislature hereby further finds and declares that the use of real property and improvements on that real property as a golf course achieves the purpose of conserving and enhancing the natural and scenic resources of this State and promotes the conservation of open space.*

Sec. 37. NRS 361A.170 is hereby amended to read as follows:

361A.170 1. *Property used as a golf course is hereby designated and classified as open-space real property and must be assessed as an open-space use.*

2. ~~{The}~~ *In addition to the designation and classification of a golf course as open-space real property pursuant to subsection 1, the governing body of each city or county shall, from time to time, specify by resolution ~~{the}~~ additional designations or classifications under its master plan that are designed to promote the conservation of open space, the maintenance of natural features for control of floods and the protection of other natural and scenic resources from unreasonable impairment.*

~~{2-}~~ 3. The board of county commissioners shall, from time to time, adopt by ordinance procedures and criteria which must be used in considering an application for open-space use assessment ~~{-}~~ *based on a designation or classification adopted pursuant to subsection 2.* The criteria may include requirements respecting public access to and the minimum size of the property.

Sec. 38. NRS 361A.180 is hereby amended to read as follows:

361A.180 Any owner of real property may apply to the county assessor for open-space use assessment *based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170* and the payment of taxes on such property as provided in this chapter.

Sec. 39. NRS 361A.220 is hereby amended to read as follows:

361A.220 1. If ~~{the}~~ property is ~~{found by the board of county commissioners}~~ *to be assessed as open-space real property*, the county assessor shall determine its value for open-space use and assess it for taxes to be collected in the ensuing fiscal year at 35 percent of that value.

2. The open-space use assessment must be maintained in the records of the assessor and must be made available to any person upon request. The property owner must be notified of the open-space use assessment in the manner provided for notification of taxable value assessments. The notice must contain the statement: Deferred taxes will become due on any portion of this parcel which is converted to a higher use.

Sec. 40. NRS 361A.230 is hereby amended to read as follows:

361A.230 1. The county assessor shall enter on the assessment roll the valuation based on open-space use until the property becomes disqualified for open-space use assessment by:

(a) ~~Notification by the applicant to the assessor to remove the open-space use assessment;~~

~~(b)~~ Sale or transfer to an owner making it exempt from ad valorem property taxation;

~~(c)~~ (b) Removal of the open-space use assessment by the assessor, with the concurrence of the board, upon discovery that the property is no longer in the ~~approved~~ open-space use; or

~~(d)~~ (c) *If the open-space use assessment is based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170:*

(1) *Notification by the applicant to the assessor to remove the open-space use assessment; or*

(2) *Failure to file a new application as provided in NRS 361A.190.*

2. Except as otherwise provided in paragraph ~~(b)~~ (a) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner does not operate to disqualify open-space real property from open-space use assessment so long as the property continues to be used exclusively for an ~~approved~~ open-space use. ~~[-, if] If the open-space use assessment is based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170, the new owner [applies] must apply for open-space use assessment in the manner provided in NRS 361A.190.~~

3. Whenever open-space real property becomes disqualified under subsection 1, the county assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the assessed value for the ensuing fiscal year.

Sec. 41. NRS 361A.240 is hereby amended to read as follows:

361A.240 1. The determination of use and the open-space use assessment in each year are final unless appealed.

2. ~~[The] If the application for an open-space use assessment is based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170, the applicant for the open-space assessment is entitled to:~~

(a) Appeal the determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located, as provided in NRS 278.0235.

(b) Equalization of the open-space use assessment in the manner provided in chapter 361 of NRS for complaints of overvaluation, excessive valuation or undervaluation.”.

Amend sec. 33, page 21, by deleting lines 43 and 44 and inserting:

“2. The money in the Account ~~[must]~~ :

(a) *Must be accounted for separately and not as a part of any other account* ~~[-]; and~~

(b) *Must not be used to replace or supplant any money available from other sources to acquire technology for and improve technology used in the office of the county assessor.”.*

Amend sec. 39, page 25, line 24, by deleting “37” and inserting “51”.

Amend the bill as a whole by renumbering sections 40 and 41 as sections 56 and 57 and adding new sections designated sections 54 and 55, following sec. 39, to read as follows:

“Sec. 54. The Nevada Tax Commission shall establish the manual required by section 32 of this act not later than July 1, 2006.

Sec. 55. On or before July 1, 2006, and July 1, 2007, the county assessor of each county shall submit to the board of county commissioners of the county and the Legislative Commission a report of:

1. Any technology acquired and any improvements in the technology used in the office of the county assessor as a result of the money accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor pursuant to NRS 361.530 and 362.170, as amended by this act; and

2. The means by and extent to which that money has assisted the county assessor in the collection of taxes.”.

Amend sec. 41, page 25, by deleting line 29 and inserting:

“Sec. 57. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, and 42 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, 2007.

5. Section 43 of this act expires by limitation on June 30, 2007.”.

Assemblyman Sibley moved the adoption of the amendment.

Remarks by Assemblyman Sibley.

Amendment adopted.

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

Senate Bill No. 458.

Bill read second time.

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

Amendment No. 943.

Amend sec. 2, page 4, line 33, by deleting “Health Division” and inserting: “State Board of Health”.

Amend sec. 2, page 4, lines 38 and 39, by deleting “Health Division” and inserting: “State Board of Health”.

Assemblywoman Leslie moved the adoption of the amendment.

Remarks by Assemblywoman Leslie.

Amendment adopted.

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

Senate Bill No. 467.

Bill read second time.

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

Amendment No. 890.

Amend section 1, page 1, line 4, by deleting “governing” and inserting “[~~governing~~] public”.

Amend section 1, page 3, line 21, after “by” by inserting: “*the governing body of*”.

Amend sec. 7, page 9, by deleting lines 24 and 25 and inserting: “public body shall report to the public body any contract that ~~the~~ *the authorized representative*”.

Amend sec. 7, page 9, line 37, after “body” by inserting: “*or its authorized representative*”.

Amend sec. 7, page 10, line 5, by deleting: “*responsive and responsible*”.

Amend sec. 7, page 10, line 11, by deleting “and”.

Amend sec. 7, page 10, by deleting line 13 and inserting: “*publishing a notice pursuant to paragraph (a); and*

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.”.

Amend sec. 8, page 11, by deleting lines 23 and 24 and inserting: “public body shall report to the public body any contract that ~~the~~ *the authorized representative*”.

Amend sec. 8, page 11, line 36, after “body” by inserting: “*or its authorized representative*”.

Amend sec. 8, page 12, line 3, by deleting “*responsive and responsible*”.

Amend sec. 8, page 12, line 9, by deleting “and”.

Amend sec. 8, page 12, line 11, by deleting “(a).” and inserting: “(a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.”.

Amend the bill as a whole by deleting sec. 12.5 and adding:

“Sec. 12.5. (Deleted by amendment.)”.

Amend sec. 15, page 18, line 19, by deleting “*responsive and responsible*”.

Amend sec. 15, page 18, line 25, by deleting “and”.

Amend sec. 15, page 18, line 27, by deleting “(a).” and inserting: “(a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.”.

Amend sec. 16, page 20, line 15, by deleting “*responsive and responsible*”.

Amend sec. 16, page 20, line 21, by deleting “and”.

Amend sec. 16, page 20, line 23, by deleting “(a).” and inserting: “(a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.”.

Amend sec. 21, page 21, by deleting line 39 and inserting: “the public body ~~[determines that:]~~”.

Amend sec. 21, page 22, line 23, before “work:” by inserting: “*has approved the use of a design-build team for the design and construction of the public work and the public*”.

Amend sec. 21, page 23, line 37, by deleting “\$5,000,000.” and inserting “\$10,000,000.”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

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

Senate Bill No. 477.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 902.

Amend the bill as a whole by deleting sec. 9 and renumbering sections 10 through 14 as sections 9 through 13.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

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

Senate Bill No. 479.

Bill read second time.

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

Amendment No. 912.

Amend the bill as a whole by renumbering section 1 as sec. 4 and adding new sections designated sections 1 through 3, following the enacting clause, to read as follows:

“Section 1. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Public Officers’ and Employees’ Benefits Account is hereby created as a special account in the Fund to Stabilize the Operation of the State Government. The Interim Finance Committee shall administer the Account.*

2. *Except money required to be returned to the Federal Government, any money in excess of the amount that the Program is required to retain as reserves must be deposited at least quarterly in the Account. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.*

3. *The money in the Account:*

(a) Does not revert to the State General Fund at the end of any fiscal year; and

(b) Must be carried forward to the next fiscal year.

4. Money in the Account must be used only for programs that provide benefits for active or retired public officers and employees, or both, other than the Public Employees' Retirement System.

Sec. 2. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage or join the Public Employees' Benefits Program to the extent that such coverage is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who joins the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or not to join the Public Employees' Benefits Program, as the case may be.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage

pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for persons who join the Program upon retirement pursuant to subsection 1 as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

6. *The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall ensure that the rates for coverage established for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1 and for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., are less than the rates for persons for whom primary health insurance coverage is provided under the group insurance, plan of benefits or medical and hospital service by an amount which approximates the difference between:*

(a) The average percentage of a claim that is paid by the governing body for persons for whom primary health insurance coverage is provided by the group insurance, plan of benefits or medical and hospital service of the governing body; and

(b) The average percentage of a claim that is paid by the governing body for persons for whom secondary health insurance coverage is provided by the group insurance, plan of benefits or medical and hospital service of the governing body.

Sec. 3. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.0406, inclusive, have the meanings ascribed to them in those sections.”.

Amend section 1, page 3, line 34, after “3.” by inserting: “*The Board shall ensure that the rates for coverage established for participants in the Program for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., are less than the rate for persons for whom primary health insurance coverage is*

provided under the Program by an amount which approximates the difference between:

(a) The average percentage of a claim that is paid by the Program for persons for whom primary health insurance coverage is provided by the Program; and

(b) The average percentage of a claim that is paid by the Program for persons for whom secondary health insurance coverage is provided by the Program.

4.”.

Amend section 1, page 4, line 1, by deleting “4.” and inserting “[4.] 5.”.

Amend section 1, page 4, line 5, by deleting “5.” and inserting “[5.] 6.”.

Amend section 1, page 4, line 8, by deleting “6.” and inserting “[6.] 7.”.

Amend section 1, page 4, line 12, by deleting “7.” and inserting “[7.] 8.”.

Amend the bill as a whole by renumbering sections 2 through 4 as sections 6 through 8 and adding a new section designated sec. 5, following section 1, to read as follows:

“Sec. 5. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of title 57 of NRS ~~[689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.173, 695G.200 to 695G.230, inclusive, and 695G.241 to 695G.310, inclusive.]~~, except the provisions of chapter 680B of NRS, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.”.

Amend sec. 3, page 5, by deleting lines 14 and 15 and inserting:

“287.0475 1. A public officer or employee who has retired pursuant to”.

Amend sec. 4, page 6, by deleting lines 14 and 15 and inserting: “employees ~~[or]~~ and all retired state officers and employees ~~[, or any combination thereof.]~~ who served in the same positions as the active state officers and employees who are members of the group that participate in the Program may leave the Program and”.

Amend sec. 4, page 6, lines 21 and 28, by deleting “may” and inserting “[may] shall”.

Amend sec. 4, page 6, by deleting lines 36 and 37 and inserting:

“Program. ~~[Except as otherwise provided in this section, the Board has discretion in determining whether to approve a contract.]~~ If the”.

Amend sec. 4, page 7, by deleting lines 5 through 7 and inserting:

“4. If a group leaves the Program pursuant to this section:

(a) The group is eligible to reinstate coverage with the Program if the insurer or employee benefit plan with which the group contracted becomes insolvent or can no longer provide coverage based on other unforeseen circumstances.

(b) A member of the group is eligible to reinstate coverage with the Program if, as a result of a change in employment, the member is no longer

eligible to participate in the insurance provided by the insurer or employee benefit plan with which the group contracted.

5. *A decision by the Board on the approval or disapproval of a proposed contract pursuant to this section is a final decision for the purpose of judicial review.”.*

Amend sec. 4, page 7, line 8, by deleting “5.” and inserting “6.”.

Amend the bill as a whole by renumbering sec. 5 as sec. 11 and adding new sections designated sections 9 and 10, following sec. 4, to read as follows:

“Sec. 9. NRS 679A.100 is hereby amended to read as follows:

679A.100 “Insurer” includes ~~every~~ :

1. Every person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance.

2. *Except as otherwise provided in NRS 287.04335, the Board of the Public Employees’ Benefits Program if the Board provides health insurance through a plan of self-insurance.*

Sec. 10. NRS 679B.130 is hereby amended to read as follows:

679B.130 1. The Commissioner may adopt reasonable regulations:

(a) For the administration of any provision of this Code ~~[, NRS 287.04335]~~ or chapters 616A to 617, inclusive, of NRS; or

(b) As required to ensure compliance by the Commissioner with any federal law or regulation relating to insurance.

2. A person who willfully violates any regulation of the Commissioner is subject to such suspension or revocation of a certificate of authority or license, or administrative fine in lieu of such suspension or revocation, as may be applicable under this Code or chapter 616A, 616B, 616C, 616D or 617 of NRS for violation of the provision to which the regulation relates. No penalty applies to any act done or omitted in good faith in conformity with any such regulation, notwithstanding that the regulation may, after the act or omission, be amended, rescinded or determined by a judicial or other authority to be invalid for any reason.”.

Amend sec. 5, page 7, line 15, by deleting “2” and inserting “6”.

Amend sec. 5, page 7, line 17, by deleting: “1, 3 and 4” and inserting: “1 to 5, inclusive, and 7 to 10, inclusive,”.

Amend the title of the bill to read as follows:

“AN ACT relating to public personnel; creating a special account in the Fund to Stabilize the Operation of the State Government for certain excess money of the Public Employees’ Benefits Program; providing requirements concerning the rates of coverage for certain retired public officers and employees under the Public Employees’ Benefits Program or under the group insurance, a plan of benefits or medical and hospital service of a local government; requiring the Public Employees’ Benefits Program to comply with certain provisions governing insurers if health insurance is provided through a plan of self-insurance; revising the date after employment or taking office on which the eligibility of certain state officers and employees to

participate in the Public Employees' Benefits Program commences; revising the provisions governing the reinstatement of insurance by a retired public officer or employee or his spouse; revising provisions governing groups that leave the Program; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes to provisions governing health insurance coverage for public personnel. (BDR 23-609)”.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Assemblyman Parks moved that upon return from the printer Senate Bill No. 479 be rereferred to the Committee on Ways and Means.

Motion carried.

Bill ordered reprinted, engrossed, and the Committee on Ways and Means.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 70; Senate Bills Nos. 15, 19, 81, 131, 135, 138, 169, 180, 184, 395, 424, 443, and 483; Senate Joint Resolution No. 12; Senate Concurrent Resolution No. 43.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Allen, the privilege of the floor of the Assembly Chamber for this day was extended to Carl Fettig and Donna Fettig.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Carolann Kahler, Mrs. Gutierrez, Mrs. Koepnick, Angie White, Tanish Bravo, Sandra Hernandez, Robbie Vowinkel, Kashawn Amjad, Anahi Arenas, Karina Arenas, Chelsea Bosco, Jasmine Bravo, Roxana Carranco, Karen Carranza, Alex Chavez, Timothy Cook, Daniel Dixon, Raven Durr, Felix Garcia Huipe, Lucas Jones, Timothy Keelin, Timothy Klotz, Shawn Koepnick, Jennifer Lopez Lugo, Bilal Maqsood, Jeremy Osburn, Juan Pinedo-Hernandez, Alejandra Rodriguez-Avila, Melissa Rojo, Aspen Scott, Cierra Stevenson, Brandon Taylor, Chelsea Taylor, Georgie Vowinkel, Katelyn Wolf, Mrs. Roseborough, Silvia Garcia, Maria Hernandez, Stacey Bosco, Maria Gutierrez, Cassidy Bosco, Alvaro Briceno, Alan Brown, Marianna Carter, Elizabeth Garcia, Kevin Garcia, Abril Gutierrez, Mackenzie Hardin, Gregory Harnandez-Castorena, Julio Landeros, Maggie Lutes, Crystal Martinez, Allana Montoya, Marielle Regis, Jorge Rodriguez, Taran Romero, Emanuel Sanchez, Aaina Sharma, Julio Soto, Bettie Lu Stoddart, Luis Valle, Paul Zavadil, Oshay Bazile, Andrew Ortiz, David Ramerez, Alfredo Perez, Mrs. Overpeck,

Mrs. Stocking, Mrs. Carroll, Mrs. Chanez, Mrs. Humphreys, Maria Flores, Creed Armendariz, Michael-Thomas Brown, Katherine Calkins, Miguel Camacho-Villa, Sativa Carroll, Bryan Chanez, Amanda Davis, Asly Flores, Eduardo Flores Esparza, Tori Huey, Tara Humphreys, Madison Kell, Laura Lopez-Perez, Luis Lopez-Rangel, Kayle Matzen, Brittanie Morales, Vanessa Navarro, Bailey Newell, Fatasia Nielsen, Eric Onisile, Michael Onyeagbako, Alejandra Perez, Gagan Riar, Jordan Rose, Matthew Aulsgiver, Kristina Stocking, Cindy Torres-Murillo, and Josue Virgen.

On request of Assemblyman Marvel, the privilege of the floor of the Assembly Chamber for this day was extended to Jon Whipple and Jelaine M. Whipple.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Patricia Wenger.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Magner, Jeanne Abercrombie, Laurie Johns, Joee Torres, Brandon Murray, Alejandro Rios, Christopher Spencer, Dakota Cave, Katarina Pancho, Alexander Pray, Anita Swearingen, Mona Scouller, Vickie Roberts, Noelle Conover, Ian Devine, Andrew Gutierrez, Rachel Lackey, Marissa Mills, Taylor Negrete, Archie Redmond, Matthew Roberts, Michaela Roth, Nick Walker, Justin Wall, Ryan West, Alec Donner, Colton Harnar, Michael Alan Lake, Joseph Massett, Dennise Mena, Sam Merritt, Stacey Nieri, Jacob Rodriguez, Hannah Rutherford, Matthew Sisco, Jordan Van Worth, and Aaron Wiley.

Assemblyman Ocegüera moved that the Assembly adjourn until Friday, May 27, 2005, at 11:00 a.m.

Motion carried.

Assembly adjourned at 6:17 p.m.

Approved:

RICHARD D. PERKINS
Speaker of the Assembly

Attest: NANCY S. TRIBBLE
Chief Clerk of the Assembly