

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 20, 2005

Senate called to order at 11:42 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Stan Pesis.

Almighty God,

You have called these men and women to lead and govern Your people. Bring Your presence to them that in their deliberations and decisions that they may work so as to build up all Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam President:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 226, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Madam President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 83, 408, 421, 422, 467, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Madam President:

Your Committee on Human Resources and Education, to which were referred Senate Bills Nos. 280, 281, 286, 298, 459, 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 Human Resources and Education, to which was rereferred Senate Bill No. 282, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Madam President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 88, 205, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 199, 266, 313, 326, 341, 353, 432, 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 Judiciary, to which was referred Assembly Bill No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

MARK E. AMODEI, *Chair*

Madam President:

Your Committee on Natural Resources, to which was referred Senate Bill No. 216, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEAN A. RHOADS, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 19, 2005

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 216, 470, 486, 503, 507, 509, 510, 527, 531, 547; Assembly Joint Resolutions Nos. 6, 9, 10, 12, 14, 16; Senate Bills Nos. 73, 132.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 234, 248, 323, 379, 381, 474, 519, 537; Assembly Joint Resolution No. 4.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 18.

DIANE KEETCH

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 20, 2005

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 22.

DIANE KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Raggio, Rhoads, Schneider, Tiffany, Titus, Townsend, Washington, Wiener; Assemblymen Ocegüera, Horne, Allen, Anderson, Angle, Arberry Jr., Atkinson, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Gansert, Gerhardt, Giunchigliani, Goicoechea, Grady, Hardy, Hettrick, Hogan, Holcomb, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel, McClain, McCleary, Mortenson, Munford, Ohrenschall, Parks, Parnell, Perkins, Pierce, Seale, Sherer, Sibley, Smith and Weber:

Senate Concurrent Resolution No. 19—Commending Dean Richard Morgan and the William S. Boyd School of Law for the success of the law school and contributions to the betterment of the State of Nevada.

WHEREAS, Dean Richard Morgan has served with distinction in the United States legal education community for more than 24 years, including service as Dean of the Arizona State University College of Law and Dean of the University of Wyoming College of Law, service on behalf of the American Bar Association and the Association of American Law Schools and a career that has been marked by awards for excellence and leadership; and

WHEREAS, Dean Richard Morgan was selected in 1997 to be the founding Dean of the William S. Boyd School of Law at the University of Nevada, Las Vegas, the first public law school in the State of Nevada; and

WHEREAS, Dean Richard Morgan, by virtue of his experience, talent, commitment and vision, planned the creation of the William S. Boyd School of Law, recruited an outstanding faculty of leading legal educators from throughout the country and led the school, following its opening in August of 1998, to provisional and full accreditation by the American Bar Association and membership in the Association of American Law Schools in record time; and

WHEREAS, Due in large measure to the leadership of Dean Richard Morgan, the William S. Boyd School of Law has become an outstanding center for legal education and scholarship as well as faculty and student involvement in programs designed to enhance the understanding and practice of law and service to the State of Nevada; and

WHEREAS, In 2003, in its first ranking as an accredited law school, the William S. Boyd School of Law was ranked 82nd out of 187 accredited law schools in the United States by *U.S. News & World Report*, which is an unprecedented ranking for a new law school; and

WHEREAS, Recognition of the William S. Boyd School of Law as a leading center for legal education is demonstrated by the fact that in 2004 the school received more than 14 applicants for each available seat in its first-year class; and

WHEREAS, Graduates of the William S. Boyd School of Law already are demonstrating leadership in positions of responsibility, including those in the Nevada State Legislature; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That Dean Richard Morgan and the administrators, faculty, students and supporters of the William S. Boyd School of Law are to be commended for the school's success and contributions to the betterment of the State of Nevada; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dean Richard Morgan and the William S. Boyd School of Law.

Senator Amodei moved the adoption of the resolution.

Remarks by Senators Amodei, Raggio, Coffin, Titus, Mathews, Cegavske, Tiffany, Wiener, Schneider and Washington.

Senator Amodei requested that the following remarks be entered in the Journal.

SENATOR AMODEI:

Thank you. When I attended law school, I did not have the option of attending in state. I have watched this endeavor of the University and Community College System of the State of Nevada progress. I was requested to play a small part in helping to bring this resolution about and was happy to do so. Year after year, the William S. Boyd School of Law has produced results. During its short tenure, the school has been accredited and ranked. I have seen the quality of teachers and students brought to this school and know that they are excellent. Nevada went for too long without a public law school. When we finally decided to have a law school, we did it in a first-class way. That could not have been done without the leadership provided by Dean Morgan. I recommend support of this resolution.

SENATOR RAGGIO:

Thank you. I would like to recognize Dean Richard Morgan who we honor today. Dean Morgan is an experienced legal educator having served as Dean at both the Arizona State University College of Law and the University of Wyoming College of Law. He earned his B.A. in Political Science at the University of California, Berkeley, in 1967. In 1971, he received his JD from the University of California at Los Angeles (UCLA). He was editor of the UCLA Law Review. Those of us in the legal profession recognize it as one of the more prestigious positions attainable as a law student. He practiced with the Los Angeles law firm of Nossaman, Kreuger and Marsh in the corporate/securities areas from 1971 to 1980. He was a professor of law at the Arizona State University College of Law from 1980 to 1987 and served as Associate Dean from 1983 to 1987. He was chosen to be Dean at the University of Wyoming College of Law from 1987 to 1990 and returned to the Arizona State University College of Law in 1990 where he served as Dean and Professor of law until 1997. We were fortunate to lure him away to become our Dean of the William S. Boyd School of Law.

Taking on the task of Dean of a new law school was a challenge. In a short period of time, it has become nationally recognized and has attained a high level of acceptance throughout the Nation. It is one of the better law schools in this Country. This was achieved through the dedication of the faculty and the Dean. We are fortunate. We are adopting this resolution in admiration and recognition of those efforts.

SENATOR COFFIN:

I rise to recognize the importance of the resolution and to point out the significance of the presence of Robert Faiss. Mr. Faiss has been around Nevada government for a long time. He worked in the administration of Governor Sawyer from 1959 to 1967. Without a law school in this State, people like Bob Faiss would be lost to our community forever. Because Bob Faiss had a work ethic that is so great, after his time with Governor Sawyer, he went to work in Washington, and while there, he attended law school at night. That is a rigorous ordeal. His work ethic was outstanding in the daytime and continued so that he could complete night school. I first met him in the early 1970s. He had not been practicing long. He was about 40-years old when he started practicing. I was able to relate to him immediately.

Now we have school that is overdue in coming to this State. Hardworking citizens of this State can attend without having to leave Nevada.

SENATOR TITUS:

There are many things in this resolution of which to be proud, but one aspect of the school is missing. What I like about the law school is its culture of public service. Many programs at the law school give back to the community. There are studies in immigration and human rights and social services. There is much pro-bono work done. It is not just an ivory-tower institution. The law school plays a large role in the public-policy debate in this State. I commend the Dean and faculty for that commitment.

SENATOR CEGAUSKE:

I rise in support of Senate Concurrent Resolution No. 19. I wish to thank Dean Morgan. It has been a pleasure over the years to get to know and to see the facilities and to watch the progress at the University of Nevada Las Vegas (UNLV). It is an outstanding program. My son wants to go to law school. I think the UNLV Law School is one of the finest in the Country because of your leadership. I thank you very much.

SENATOR TIFFANY:

Thank you, I often tease Dean Morgan that the law school should have been called the Sandra Tiffany-Marilyn Gubler School of Law. The community became galvanized when there was one-half million dollars given to a study as to whether we should have a law school or not. Marilyn Gubler and I got a private contract with a company that has a private law school in California. We talked to the Supreme Court about getting an exception for getting the American Bar Administration accreditation. During that lobbying process, the Clark County board galvanized; the local attorneys became interested, creating an interesting time for us. This brought the community together to galvanize the support for the law school.

I appreciate, Dean Morgan, what you have done for our community. The quality of the law school is excellent. Although, I did want the funding to come from the private sector, you have done an outstanding job. I could not be more proud of our law school. It has not broken the bank, and I am pleased.

There have been many beneficial programs for our community. Pro-bono work has been done for the juvenile justice system. If I have legal questions, I call the constitutional professors, and they are always helpful. I want to thank you for all you have done.

SENATOR WIENER:

I rise in support of this resolution. I want to say thank you to someone who has included our family into the school in a special way. When the school was first being considered, Dean Morgan, Jim Rogers and I discussed that my father's name might be placed on the library. Dean Morgan spent a great deal of time with me encouraging me to spend time to raise money to that effort, and I will. The love of reading, the love of books and the love of research and having my father's name attached to that building is a significant legacy for our entire family.

When I first met Dean Morgan early on when he first came to Las Vegas, I was a first-year participant in the Nevada Senior Olympics. I learned he was athletic too, and I encouraged him to participate in one of the sports. On the day of competition in my event of fitness and weight lifting, he showed up. I watched him warm up for the push-ups. I said to myself, "I think I can outdo him because I have been training for months." However, he was just warming up because when he competed, the speed of the camera could not keep up with him. I was told he had been a Marine. I learned later that he had participated in track and field. He ran with an injured heel, running on his toes, and still medaled in the event.

He is dedicated when he sets his mind on something. His dedication has set the pace for me to want to work with him, with the law school. Nevada is a better place for what he has given of himself to our law school. Thank you, Dean Morgan, for coming to Nevada and calling this State your home. You have given your heart and soul to the wonderful law school in southern Nevada.

SENATOR SCHNEIDER:

I, too, stand in support of this resolution. My friend, Bob Faiss, reminded me that I was one of the first students he had at UNLV. He failed me quite a bit.

Dean Morgan has been so generous with his time. My son is considering law school. We visited with the Dean, and he was good enough to show us around the school. My intern has just been accepted to the Boyd School of Law at UNLV. She will turn out much better than I.

SENATOR WASHINGTON:

I stand in support of this resolution. I applaud Dean Morgan for his leadership in the college. I applaud him for being a man who is willing to create some diversity within the law school. Congratulations.

Resolution adopted.

Senator Amodei moved that all rules be suspended and that Senate Concurrent Resolution No. 19 be immediately transmitted to the Assembly.

Motion carried unanimously.

In compliance with a notice given on the previous day, Senator Raggio moved that the vote whereby Senate Bill No. 107 was passed be reconsidered.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 107 be rereferred to the Committee on Finance.

Motion carried.

In compliance with a notice given on the previous day, Senator Raggio moved that the vote whereby Senate Bill No. 491 was passed be reconsidered.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 491 be rereferred to the Committee on Finance.

Motion carried.

Assembly Concurrent Resolution No. 22—Commemorating the 85th anniversary of the League of Women Voters as a national organization.

WHEREAS, The League of Women Voters was first established in Nevada in 1919, due in large part to the inspiration of Carrie Chapman Catt, a national leader in the battle to obtain the right to vote for all women; and

WHEREAS, The League of Women Voters was established as a national organization in 1920; and

WHEREAS, The League of Women Voters worked tirelessly to ensure that Amendment XIX of the Constitution of the United States, prohibiting the denial of the right to vote on account of sex, was proposed by Congress and ratified by the states; and

WHEREAS, Since 1920, the League of Women Voters has flourished throughout the State of Nevada, with units in Ely, Elko, Lovelock, Winnemucca, Carson City, Reno and Las Vegas; and

WHEREAS, In 1974, the League of Women Voters began accepting men as full voting members and now works for the informed and active participation of all citizens in government; and

WHEREAS, The League of Women Voters provides a valuable resource to the residents of Nevada by preparing and distributing nonpartisan information on candidates and issues, thereby allowing the residents of Nevada to learn about the issues of an election without partisan influence; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 73rd Session of the Nevada Legislature hereby commemorate the 85th anniversary of the League of Women Voters as a national organization; and be it further

RESOLVED, That the League of Women Voters is hereby commended for its dedication and perseverance as it continues to encourage active participation in government, both at the local and national levels; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Mary Lee, President of the League of Women Voters of Nevada, and Kay Maxwell, President of the League of Women Voters of the United States.

Senator Wiener moved the adoption of the resolution.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

I rise in support of Assembly Concurrent Resolution No. 22. The League of Women Voters was established as a national organization in 1920. This was only six months before the ratification of the 19th Amendment to the United States Constitution which granted women the right to vote. Of course, Nevada, being a progressive state, had already granted women the right to vote in 1914.

For more than 85 years, the League has worked to enact laws to improve the quality of life for all Americans. Many of our laws today are the end-product of the tireless efforts of the League of Women Voters.

In the 1970s, when the Equal Rights Amendment was heard as a cry for change, the League of Women Voters changed its own bylaws. In 1974, the National League voted to admit men into its organization.

During that time, my attaché, Jeanne Baret, was the president of the League's Carson City chapter. She admitted Nevada's first male member to the League. That inaugural member was Harold Jacobsen, soon to be Mayor of Carson City. I, too, have a connection to Harold Jacobsen. He was a classmate and good friend of my father, Louis Wiener Jr., when they attended the University of Nevada in Reno in the 1930s.

Now, in its ninth decade, the League remains committed to educating our citizens and connecting people to their government as well as enhancing voter participation.

On your desks, the Sergeant at Arms has placed a bookmark. This bookmark commemorated the continuing efforts of the League of Women Voters—to educate and encourage our citizens to become involved in affecting governmental change.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 4.

Senator Nolan moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

Assembly Joint Resolution No. 6.

Senator Nolan moved that the resolution be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Joint Resolution No. 9.

Senator Nolan moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Joint Resolution No. 10.

Senator Nolan moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Joint Resolution No. 12.

Senator Nolan moved that the resolution be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Joint Resolution No. 14.

Senator Nolan moved that the resolution be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Joint Resolution No. 16.

Senator Nolan moved that the resolution be referred to the Committee on Taxation.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 507—AN ACT making an appropriation to Nevada's Safe Place for the continuation of outreach programs for youth under 21 years of age; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 216.

Senator Nolan moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 234.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 248.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 323.

Senator Nolan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 379.

Senator Nolan moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 381.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 470.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 474.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 486.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 503.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 507.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 509.

Senator Nolan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 510.

Senator Nolan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 519.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 527.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 531.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 537.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 547.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 28.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 284.

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

"Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

- (a) Without the consent of the other person; and
- (b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. A person who violates this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement, correctional or intelligence activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

- (a) Court records;
- (b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;
- (c) Records of criminal history, as that term is defined in NRS 179A.070; and
- (d) Records in the Central Repository for Nevada Records of Criminal History,

➡ is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

- (a) As necessary for the purposes of investigation and prosecution of the violation;
- (b) As necessary for the purpose of allowing a person charged with a violation of this section and his attorney to prepare a defense; and
- (c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

- (a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and
- (b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

- (a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) *"Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.*

(c) *"Female breast" means any portion of the female breast below the top of the areola.*

(d) *"Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.*

(e) *"Under circumstances in which the other person has a reasonable expectation of privacy" means:*

(1) *Circumstances in which a reasonable person would believe that he could disrobe in privacy, without being concerned that an image of his private area would be captured; or*

(2) *Circumstances in which a reasonable person would believe that his private area would not be visible to the public, regardless of whether he is in a public or private place."*

Amend the title of the bill to read as follows:

"AN ACT relating to crimes; prohibiting a person from knowingly and intentionally capturing an image of the private area of another person under certain circumstances; prohibiting a person from knowingly distributing, disclosing, displaying, transmitting or publishing an image captured under such circumstances; prohibiting the inspection or release of such images under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Prohibits person from knowingly and intentionally capturing image of private area of another person under certain circumstances and prohibits person from knowingly distributing, disclosing, displaying, transmitting or publishing image captured under such circumstances. (BDR 15-8)".

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 37.

Bill read second time.

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

Amendment No. 365.

Amend section 1, page 2, line 2, by deleting "9," and inserting "8,".

Amend sec. 2, page 2, by deleting lines 17 through 20 and inserting:

"2. *In addition to the requirements of subsection 1, the applicant shall submit with his application a list containing each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the applicant. The Board may require any*

person on the applicant's list to submit a complete set of his fingerprints to the Board if the Board determines that the person has the".

Amend sec. 3, page 3, by deleting lines 18 and 19 and inserting:

"Sec. 3. 1. On a monthly basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal".

Amend sec. 3, page 3, by deleting lines 23 through 25 and inserting: *"licensee as a wholesaler."*

Amend sec. 3, page 3, line 26, by deleting *"the list"* and inserting: *"an updated list"*.

Amend sec. 3, page 3, line 29, by deleting: *"that person shall"* and inserting: *"the Board may require that person to"*.

Amend the bill as a whole by deleting sections 5 through 7, renumbering sections 8 through 13 as sections 7 through 12 and adding new sections designated sections 5 and 6, following sec. 4, to read as follows:

"Sec. 5. As used in sections 5 to 8, inclusive, of this act, unless the context otherwise requires, "statement of prior sales" or "statement":

1. Means a statement of prior sales that must be used in a transaction involving the purchase or sale of a prescription drug by a wholesaler if required by the regulations adopted by the Board pursuant to section 6 of this act; and

2. Is synonymous with the term "Statement Identifying Prior Sales of Prescription Drugs by Wholesalers Required by the Prescription Drug Marketing Act."

Sec. 6. 1. The Board shall adopt regulations to provide for:

(a) The safe and efficient operation of wholesalers; and

(b) The integrity and propriety of transactions involving the purchase and sale of prescription drugs by wholesalers.

2. The regulations adopted by the Board must include, without limitation, regulations establishing:

(a) The circumstances and conditions under which a wholesaler must prepare, deliver, acquire and maintain a statement of prior sales regarding a transaction involving the purchase or sale of a prescription drug;

(b) The form and contents of a statement of prior sales; and

(c) The process and procedures for verifying and certifying that the information contained in a statement of prior sales is complete and accurate.

3. In determining the circumstances and conditions under which a wholesaler must prepare, deliver, acquire and maintain a statement of prior sales regarding a transaction involving the purchase or sale of a prescription drug, the Board shall consider:

(a) The need for verification to ensure that the transaction is a bona fide transaction pursuant to NRS 639.2615; and

(b) The level of risk the transaction poses to public health and safety, including, without limitation, the potential that the transaction may involve the sale or purchase of a prescription drug that is:

- (1) Counterfeit;
- (2) Deemed to be adulterated or misbranded in accordance with the provisions of chapter 585 of NRS;
- (3) Mislabeled;
- (4) Damaged or compromised by improper handling, storage or temperature control;
- (5) From a foreign or unlawful source; or
- (6) Manufactured, packaged, labeled or shipped in violation of any state or federal law relating to prescription drugs.

4. If a statement of prior sales is required for a transaction involving the purchase or sale of a prescription drug by a wholesaler, the statement:

(a) Must include the signature of the wholesaler or his designated representative certifying that the information contained in the statement is complete and accurate; and

(b) Except as otherwise provided in subsection 5, must be:

(1) In written or electronic form, if the transaction occurs before January 1, 2007; and

(2) In electronic form, if the transaction occurs on or after January 1, 2007.

5. The Board may extend the date for compliance with the requirement that the statement of prior sales must be in electronic form if the Board determines that the technology to provide such a statement in electronic form is not reasonably available or that the licensed wholesalers in this State otherwise require additional time to carry out the requirements of an electronic form. If the Board extends the deadline pursuant to this subsection, the Board shall ensure that all licensed wholesalers in this State are provided adequate notice of the extension."

Amend sec. 8, pages 8 and 9, by deleting lines 41 through 45 on page 8 and lines 1 through 5 on page 9, and inserting: "felony and shall be punished as provided in NRS 193.130 if, with the intent to defraud or deceive, he:

1. Fails to deliver to another person a complete and accurate statement of prior sales for a prescription drug, if such a statement is required, before selling or otherwise transferring the drug to that person.

2. Fails to acquire a complete and accurate statement of prior sales for a prescription drug, if such a statement is required, before obtaining the drug from another person.

3. Falsely swears or certifies that the information in a statement of prior sales is accurate and".

Amend sec. 9, page 9, by deleting lines 9 through 23 and inserting: "felony and shall be punished as provided in NRS 193.130 if he knowingly:

1. Destroys, alters, conceals or fails to maintain a complete and accurate statement of prior sales for each prescription drug in his possession for wholesale distribution if such a statement is required.

2. *Fails to authenticate information contained in a statement of prior sales for a prescription drug, if such a statement is required, and distributes or attempts to distribute that prescription drug.*

3. *Forges, counterfeits or falsely creates a statement of prior sales.*

4. *Makes a false representation or assertion of any factual matter contained in a statement of prior sales.*

5. *Fails to record material information required to be recorded in a statement of prior sales."*

Amend sec. 12, page 11, line 30, by deleting: "8 or 9" and inserting: "7 or 8".

Amend the bill as a whole by deleting sections 14 and 15 and renumbering sec. 16 as sec. 13.

Amend sec. 16, page 13, lines 5 and 6, by deleting: "10, inclusive, and 12 to 15, inclusive," and inserting: "9, inclusive, and 11 and 12".

Amend sec. 16, page 13, line 7, by deleting "10" and inserting "9".

Amend sec. 16, page 13, line 18, by deleting "11" and inserting "10".

Amend the title of the bill to read as follows:

"AN ACT relating to prescription drugs; requiring an applicant for licensure as a wholesaler of prescription drugs to submit a set of his fingerprints to the State Board of Pharmacy for use by the Board in obtaining a report on the applicant's criminal history; authorizing the Board to require certain persons connected with the operations of a licensed wholesaler to submit a set of fingerprints to the Board for use by the Board in obtaining a report on the person's criminal history; requiring certain licensed wholesalers to file a bond or cash deposit conditioned upon compliance with the laws relating to wholesalers; requiring certain licensed wholesalers to prepare, deliver, acquire and maintain statements identifying prior sales of prescription drugs under certain circumstances; requiring the Board to adopt regulations regarding the use of such statements; providing penalties; and providing other matters properly relating thereto."

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Cegavske, Townsend and Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 47.

Bill read second time.

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

Amendment No. 433.

Amend section 1, pages 2 and 3, by deleting lines 25 through 38 on page 2 and lines 1 through 7 on page 3, and inserting:

"3. An applicant who fails the examination may not reapply for a license for at least 1 year after *the date on which he* ~~submits~~ *submitted* his application to the Board."

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

"Sec. 2. 1. The Advisory Committee to the Board of Athletic Trainers is hereby created.

2. On or before January 1, 2006, the Board of Athletic Trainers shall appoint seven members to the Advisory Committee as follows:

(a) Two members who are members of the Nevada Physical Therapists Association, or its successor organization, and who are licensed in this State as physical therapists.

(b) Two members who are members of the Nevada Athletic Trainers Association, or its successor organization, and who are licensed in this State as athletic trainers.

(c) Two members who are actively engaged in business or practice as personal trainers or other fitness instructors in this State and who are not:

(1) Licensed in this State as physical therapists or athletic trainers; or

(2) Members of the Nevada Physical Therapists Association or the Nevada Athletic Trainers Association, or any successors to those organizations.

(d) One member of the general public who is not:

(1) Licensed in this State as a physical therapist or athletic trainer;

(2) A member of the Nevada Physical Therapists Association or the Nevada Athletic Trainers Association, or any successors to those organizations; or

(3) Actively engaged in business or practice as a personal trainer or other fitness instructor.

↪ Not more than two members of the Advisory Committee may also be members of the Board of Athletic Trainers. Not more than two members of the Advisory Committee may also be members of the State Board of Physical Therapy Examiners.

3. The members of the Advisory Committee serve at the pleasure of the Board of Athletic Trainers. Any vacancy in the membership of the Advisory Committee must be filled in the same manner as the original appointment.

4. The Advisory Committee shall elect such officers from within its membership, fix such time and place of meetings, adopt such rules of procedure and keep such records all as in its sole discretion it shall determine to be consistent with carrying out its duties. A majority of the members of the Advisory Committee constitutes a quorum.

5. The members of the Advisory Committee are not entitled to receive a salary. While engaged in the business of the Advisory Committee, each member of the Advisory Committee is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board of Athletic Trainers. The rate must not exceed the rate provided for officers and employees of this State generally.

6. A member of the Advisory Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his

duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Committee to make up the time he is absent from work to carry out his duties as a member of the Advisory Committee or use annual vacation or compensatory time for the absence.

7. Notwithstanding any other provision of law, a member of the Advisory Committee:

(a) Is not disqualified from public employment or holding a public office because of his membership on the Advisory Committee; and

(b) Does not forfeit his public office or public employment because of his membership on the Advisory Committee.

8. The Board of Athletic Trainers shall:

(a) Provide the Advisory Committee with administrative and clerical support and with such other assistance as may be necessary for the Advisory Committee to carry out its duties. Such support and assistance must include, without limitation, making arrangements for facilities, equipment and other services in preparation for and during meetings.

(b) Pay for any expenses reasonably incurred by the Advisory Committee in carrying out its duties, including, without limitation:

(1) The administrative and clerical support and other assistance provided pursuant to paragraph (a); and

(2) The per diem allowance and travel expenses provided for each member of the Advisory Committee pursuant to subsection 5.

9. The purposes of the Advisory Committee are to study the business and practice of personal trainers and other fitness instructors in this State and to develop recommendations regarding any legislation that may be necessary concerning the regulation of those personal trainers and other fitness instructors. In carrying out its duties, the Advisory Committee shall:

(a) Identify the personal trainers and other fitness instructors in this State and establish a registry of the names and addresses of those personal trainers and other fitness instructors to provide notice of the time and place of the public meetings held by the Advisory Committee pursuant to this section; and

(b) Hold not less than five public meetings to study the business and practice of personal trainers and other fitness instructors in this State and to develop recommendations regarding any legislation that may be necessary concerning the regulation of those personal trainers and other fitness instructors. In holding public meetings, the Advisory Committee shall comply with the provisions of chapter 241 of NRS.

10. The Advisory Committee shall:

(a) On or before September 1 of 2006, 2007 and 2008, submit an interim written report to the Legislative Commission concerning the progress of the Advisory Committee in carrying out its duties pursuant to this section; and

(b) On or before January 15, 2009, submit a final written report of its findings and recommendations regarding any legislation that may be necessary concerning the regulation of personal trainers and other fitness instructors in this State to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The recommendations may include, without limitation, appropriate:

- (1) Education qualifications and experience requirements for licensure;
- (2) Parameters for the scope of practice;
- (3) Fees for the issuance and renewal of licenses;
- (4) Requirements for continuing education; and
- (5) Grounds for disciplinary action.

11. The Advisory Committee is hereby abolished on the date on which the Advisory Committee submits a final written report of its findings and recommendations to the Director of the Legislative Counsel Bureau pursuant to subsection 10, except that the members of the Advisory Committee may present the final written report of the Advisory Committee to the appropriate standing committees of the 75th Session of the Nevada Legislature.

12. As used in this section:

(a) "Board of Athletic Trainers" means the Board of Athletic Trainers created by NRS 640B.170.

(b) "State Board of Physical Therapy Examiners" means the State Board of Physical Therapy Examiners created by NRS 640.030."

Amend the title of the bill to read as follows:

"AN ACT relating to professions; revising the provisions governing the licensure of athletic trainers; requiring the Board of Athletic Trainers to appoint the Advisory Committee to the Board to study the business and practice of personal trainers and other fitness instructors and make recommendations to the Legislature regarding any legislation that may be necessary concerning the regulation of those personal trainers and other fitness instructors; and providing other matters properly relating thereto."

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 91.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 548.

Amend section 1, page 1, line 3, by deleting "\$3,494,384" and inserting "\$3,719,069".

Amend section 1, page 1, by deleting lines 4 and 5 and inserting: "For unanticipated operating, maintenance, inmate-driven expenses and utilities for the Fiscal Year 2004-2005 the sum of \$2,495,636 allocated as follows:

Operating expenses of \$90,000 allocated as follows:

Lovelock Correctional Center	\$18,000
High Desert State Prison	\$72,000
Maintenance expenses allocated to Lovelock Correctional Center	\$23,000

Inmate-driven expenses of \$532,252 allocated as follows:

Medical services	\$102,252
High Desert State Prison	\$430,000

Utilities expenses of \$1,850,384 allocated as follows:

Southern Nevada Correctional Center	\$92,315
Northern Nevada Correctional Center	\$199,237
Stewart Conservation Camp	\$22,034
Southern Desert Correctional Center	\$267,243
Wells Conservation Camp	\$7,799
Humboldt Conservation Camp	\$39,438
Ely Conservation Camp	\$16,359
Jean Conservation Camp	\$38,233
Tonopah Conservation Camp	\$15,284
Ely State Prison	\$267,696
Lovelock Correctional Center	\$200,048
High Desert State Prison	\$684,698".

Amend section 1, page 1, line 8, by deleting "\$1,352,710" and inserting "\$1,223,433".

Amend the title of the bill to read as follows:

"AN ACT making a supplemental appropriation to the Department of Corrections for unanticipated operating, maintenance, inmate-driven expenses and utilities for the Fiscal Year 2004-2005 and for expenses for services relating to the takeover of the Southern Nevada Women's Correctional Facility for the Fiscal Year 2004-2005; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes supplemental appropriation to Department of Corrections for unanticipated operating, maintenance, inmate-driven expenses and utilities for Fiscal Year 2004-2005 and for expenses for services relating to takeover of Southern Nevada Women's Correctional Facility for Fiscal Year 2004-2005. (BDR S-1192)".

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 123.

Bill read second time.

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

Amendment No. 366.

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

"Section 1. NRS 702.160 is hereby amended to read as follows:

702.160 1. Except as otherwise provided in this section and NRS 702.150, each retail customer shall pay:

(a) A universal energy charge of ~~{3.30}~~ 2.475 mills on each therm of natural gas that the retail customer purchases from another person for consumption in this State; and

(b) A universal energy charge of ~~{0.39}~~ 0.2925 mills on each kilowatt-hour of electricity that the retail customer purchases from another person for consumption in this State.

2. The provisions of subsection 1 do not apply to:

(a) Any therm of natural gas used as a source of energy to generate electricity.

(b) Any kilowatt-hour of electricity used in industries utilizing electrolytic-manufacturing processes.

3. If a retail customer uses the distribution services of a public utility or municipal utility to acquire natural gas or electricity that is subject to the universal energy charge, the public utility or municipal utility providing the distribution services shall:

(a) Collect the universal energy charge from each such retail customer;

(b) Ensure that the universal energy charge is set forth as a separate item or entry on the bill of each such retail customer; and

(c) Not later than 30 days after the end of each calendar quarter, remit to the Commission the total amount of money collected by the public utility or municipal utility for the universal energy charge for the immediately preceding calendar quarter.

4. If a retail customer does not use the distribution services of a public utility or municipal utility to acquire natural gas or electricity that is subject to the universal energy charge, not later than 30 days after the end of each calendar quarter, the retail customer shall remit to the Commission the total amount of money owed by the retail customer for the universal energy charge for the immediately preceding calendar quarter.

5. If, during a calendar quarter, a single retail customer or multiple retail customers under common ownership and control pay, in the aggregate, a universal energy charge of more than \$25,000 for all consumption of natural gas and electricity during the calendar quarter, such retail customers are entitled to a refund, for that calendar quarter, of the amount of the universal energy charge that exceeds \$25,000. To receive a refund pursuant to this

section, not later than 90 days after the end of the calendar quarter for which the refund is requested, such retail customers must file with the Commission a request for a refund. If a request for a refund is filed with the Commission:

(a) The Commission shall determine and certify the amount of the refund; and

(b) The refund must be paid as other claims against the State are paid from money in the Fund."

Amend sec. 2, page 3, line 8, by deleting "Seventy-five" and inserting "~~Seventy-five~~ Fifty".

Amend sec. 2, page 3, line 13, by deleting "expenses." and inserting: "expenses ~~[]~~, and the total expenditure for administrative expenses by the Welfare Division and its contractors, its subcontractors and other entities engaged to carry out the duties of the Welfare Division pursuant to this chapter must not exceed 9 percent of the money distributed to the Welfare Division pursuant to this section."

Amend sec. 2, page 3, line 26, by deleting "outreach." and inserting: "outreach ~~[]~~, except that no money may be spent pursuant to this paragraph to purchase advertising in the printed or electronic media."

Amend sec. 2, page 3, line 32, by deleting "have" and inserting: "~~have~~ :

(a) Be domiciled in a mobile home as defined in NRS 461.140; and

(b) Have".

Amend sec. 2, page 4, by deleting lines 22 through 27 and inserting: "out and enforce the provisions of this section and NRS 702.250.

~~[8.]~~ The regulations:

(a) May, without limitation, establish limitations on the amount of assistance a household may receive pursuant to this section and the manner in which payments of assistance may be made;

(b) Must establish the priority for providing assistance to households based on criteria that include, without limitation, the urgency of need, status of health and age of members of the household; and

(c) Must establish a maximum amount of assistance that may be provided to any one household annually.

7. In carrying out the provisions of this section, the".

Amend sec. 3, page 5, line 2, by deleting "Twenty-five" and inserting "~~Twenty-five~~ Fifty".

Amend sec. 3, page 5, line 7, by deleting "expenses." and inserting: "expenses ~~[]~~, and the total expenditure for administrative expenses by the Housing Division and its contractors, its subcontractors and other entities engaged to carry out the duties of the Housing Division pursuant to this chapter must not exceed 9 percent of the money distributed to the Housing Division pursuant to this section."

Amend sec. 3, page 5, line 14, by deleting "subsection 1" and inserting "this section".

Amend sec. 3, page 5, line 24, by deleting "outreach." and inserting: "outreach ~~[]~~, except that no money may be spent pursuant to this paragraph to purchase advertising in the printed or electronic media."

Amend sec. 3, page 5, by deleting line 28 and inserting:

"3. *The Housing Division may not use any money distributed to it pursuant to this section to purchase household appliances that use electricity or natural gas.*

4. Except as otherwise provided in subsection ~~[4.]~~ 5, to be eligible".

Amend sec. 3, page 5, line 30, by deleting "have" and inserting: "~~[have]~~ :

(a) *Not be domiciled in a mobile home as defined in NRS 461.140; and*

(b) *Have*".

Amend sec. 3, page 5, line 33, by deleting "4." and inserting "~~[4.]~~ 5."

Amend sec. 3, page 5, line 43, by deleting "5." and inserting "~~[5.]~~ 6."

Amend sec. 3, page 6, line 1, by deleting "6." and inserting: "~~[6.]~~ *The regulations must establish:*

(a) *The priority for providing weatherization assistance to households based on criteria that include, without limitation, the urgency of need, status of health and age of members of the household;*

(b) *A maximum amount of weatherization assistance that may be provided to any one household annually;*

(c) *A maximum amount of weatherization assistance that may be provided to any one multifamily facility annually based on criteria that include, without limitation, the number of rental units in the facility and the payments of weatherization assistance that would otherwise be made to the households in the facility; and*

(d) *The priority for providing weatherization assistance to any one household based on the efficiency of the specific type of weatherization provided.*

7."

Amend the title of the bill to read as follows:

"AN ACT relating to energy assistance; reducing the amount of the universal energy charge; revising the provisions governing the distribution of money collected pursuant to the universal energy charge; authorizing the transfer of certain money between the Welfare Division of the Department of Human Resources and the Housing Division of the Department of Business and Industry under certain circumstances; requiring the Welfare Division and the Housing Division to adopt certain regulations; and providing other matters properly relating thereto."

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton, Washington, Titus, Horsford and Tiffany.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 135.

Bill read second time.

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

Amendment No. 367.

Amend section 1, page 2, by deleting lines 16 through 22 and inserting:
"successor in interest to that organization;

(2) A substantially equivalent program of interior design approved by the Board; ~~and~~

~~(e)}~~ or".

Amend section 1, page 2, line 24, by deleting "(1)," and inserting: "(1) or (2),".

Amend sec. 2, page 3, by deleting lines 15 through 21 and inserting:
"successor in interest to that organization;

(2) A substantially equivalent program of interior design approved by the Board; ~~and~~

~~(d)}~~ or".

Amend sec. 2, page 3, line 23, by deleting "(1)," and inserting: "(1) or (2),".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 163.

Bill read second time.

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

Amendment No. 368.

Amend the bill as a whole by deleting sec. 4 and adding:

"Sec. 4. (Deleted by amendment)."

Amend the title of the bill, seventh through eleventh lines, by deleting:
"prohibiting such regulatory bodies from issuing, renewing or reinstating a license to an applicant who has not qualified for the issuance, renewal or reinstatement of the license under certain circumstances;"

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Carlton and Townsend.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 173.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 361.

Amend section 1, page 2, line 7, by deleting "\$500,000" and inserting "\$300,000".

Amend sec. 2, page 3, line 41, by deleting "\$500,000," and inserting "\$300,000,".

Amend sec. 2, page 4, line 1, by deleting "\$500,000," and inserting "\$300,000,".

Amend sec. 2, page 4, lines 10, 12 and 15, by deleting "\$500,000" and inserting "\$300,000".

Amend sec. 4, page 6, line 35, by deleting "\$500,000," and inserting "\$300,000,".

Amend sec. 4, page 8, by deleting lines 16 through 21.

Amend sec. 5, page 12, by deleting lines 12 through 20.

Amend sec. 6, page 13, line 29, by deleting "\$500,000," and inserting "\$300,000,".

Amend sec. 6, page 15, by deleting lines 10 through 15.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 396.

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

"Section 1. Chapter 11 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. 1. *"Action involving nonresidential construction" means an action that:*

(a) Is commenced against a design professional; and

(b) Involves the design, construction, manufacture, repair or landscaping of a nonresidential building or structure, of an alteration of or addition to an existing nonresidential building or structure, or of an appurtenance, including, without limitation, the design, construction, manufacture, repair or landscaping of a new nonresidential building or structure, of an alteration of or addition to an existing nonresidential building or structure, or of an appurtenance.

➡ *The term includes, without limitation, an action for professional negligence.*

2. *As used in this section:*

(a) "Appurtenance" means a structure, installation, facility, amenity or other improvement that is appurtenant to or benefits one or more nonresidential buildings or structures, but is not a part of the nonresidential building or structure. The term includes, without limitation, the parcel of real property, recreational facilities, walls, sidewalks, driveways, landscaping and other structures, installations, facilities and amenities associated with or benefiting one or more nonresidential buildings or structures.

(b) "Design professional" means a person who holds a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS or a person primarily engaged in the practice of professional engineering, land surveying, architecture or landscape architecture.

Sec. 4. "Complainant" means a person who files an action involving nonresidential construction.

Sec. 5. 1. Except as otherwise provided in subsection 2, in an action involving nonresidential construction, the attorney for the complainant shall file an affidavit with the court concurrently with the service of the first pleading in the action stating that the attorney:

- (a) Has reviewed the facts of the case;
- (b) Has consulted with an expert;
- (c) Reasonably believes the expert who was consulted is knowledgeable in the relevant discipline involved in the action; and
- (d) Has concluded on the basis of his review and the consultation with the expert that the action has a reasonable basis in law and fact.

2. The attorney for the complainant may file the affidavit required pursuant to subsection 1 at a later time if he could not consult with an expert and prepare the affidavit before filing the action without causing the action to be impaired or barred by the statute of limitations or repose, or other limitations prescribed by law. If the attorney must submit the affidavit late, he shall file an affidavit concurrently with the service of the first pleading in the action stating his reason for failing to comply with subsection 1 and the attorney shall consult with an expert and file the affidavit required pursuant to subsection 1 not later than 45 days after filing the action.

3. In addition to the statement included in the affidavit pursuant to subsection 1, a report must be attached to the affidavit. Except as otherwise provided in subsection 4, the report must be prepared by the expert consulted by the attorney and must include, without limitation:

- (a) The resume of the expert;
- (b) A statement that the expert is experienced in each discipline which is the subject of the report;
- (c) A copy of each nonprivileged document reviewed by the expert in preparing his report, including, without limitation, each record, report and related document that the expert has determined is relevant to the allegations of negligent conduct that are the basis for the action;
- (d) The conclusions of the expert and the basis for the conclusions; and

(e) *A statement that the expert has concluded that there is a reasonable basis for filing the action.*

4. *In an action brought by a claimant in which an affidavit is required to be filed pursuant to subsection 1:*

(a) *The report required pursuant to subsection 3 is not required to include the information set forth in paragraphs (c) and (d) of subsection 3 if the claimant or his attorney files an affidavit, at the time that the affidavit is filed pursuant to subsection 1, stating that he made reasonable efforts to obtain the nonprivileged documents described in paragraph (c) of subsection 3, but was unable to obtain such documents before filing the action;*

(b) *The claimant or his attorney shall amend the report required pursuant to subsection 3 to include any documents and information required pursuant to paragraph (c) or (d) of subsection 3 as soon as reasonably practicable after receiving the document or information; and*

(c) *The court may dismiss the action if the claimant and his attorney fail to comply with the requirements of paragraph (b).*

5. *An expert consulted by an attorney to prepare an affidavit pursuant to this section must not be a party to the action.*

6. *As used in this section, "expert" means a person who is licensed in a state to engage in the practice of professional engineering, land surveying, architecture or landscape architecture.*

Sec. 6. 1. *The court shall dismiss an action involving nonresidential construction if the attorney for the complainant fails to:*

(a) *File an affidavit required pursuant to section 5 of this act;*

(b) *File a report required pursuant to subsection 3 of section 5 of this act;*

or

(c) *Name the expert consulted in the affidavit required pursuant to subsection 1 of section 5 of this act.*

2. *The fact that an attorney for a complainant has complied or failed to comply with the provisions of sections 2 to 6, inclusive, of this act is admissible in the action.*

Sec. 7. *The provisions of this act apply to an action commenced on or after October 1, 2005."*

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

"AN ACT relating to civil actions; requiring an affidavit and a report in an action against certain design professionals involving nonresidential construction; requiring a court to".

Amend the summary of the bill to read as follows:

"SUMMARY—Requires affidavit and report in action against certain design professionals involving nonresidential construction. (BDR 2-897)".

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 208.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 235.

Amend sec. 2, page 2, line 10, by deleting "7," and inserting "6,".

Amend sec. 3, page 2, line 12, by deleting "7," and inserting "6,".

Amend sec. 4, page 2, line 14, by deleting: "*establish and administer*" and inserting: "*contract with the Nevada Beef Council, or its successor organization, for the establishment and administration of*".

Amend sec. 4, page 3, by deleting lines 10 through 17 and inserting:

"2. *The contract between the Department and the Nevada Beef Council, or its successor organization, entered into pursuant to subsection 1 must, without limitation:*

(a) Provide for the remittance of the proceeds from the special assessment collected pursuant to section 5 of this act from the Department to the Nevada Beef Council, or its successor organization;

(b) Provide for reimbursement by the Nevada Beef Council, or its successor organization, to the Department for the reasonable and necessary expenses incurred by the Department in the collection of the special assessment pursuant to section 5 of this act;

(c) Specify the manner in which the Nevada Beef Council, or its successor organization, or the Department, as appropriate, must pay refunds of the special assessment to any person who requests such a refund in accordance with section 5 of this act; and

(d) Require the Nevada Beef Council to prepare an annual budget and submit that budget to the Department for its review."

Amend the bill as a whole by deleting sections 5 and 6, renumbering sections 7 and 8 as sections 6 and 7 and adding a new section designated sec. 5, following sec. 4, to read as follows:

"Sec. 5. 1. *The Department shall fix a special assessment not to exceed \$1 on each head of cattle for which, before the transfer of ownership of the cattle by sale or otherwise, a brand inspector of the Department conducts a brand inspection.*

2. *If a brand inspector of the Department conducts a brand inspection specified in subsection 1, he shall collect the assessment fixed pursuant to subsection 1 at the time that he conducts the brand inspection. Money collected pursuant to this section must be deposited into the State Treasury for credit to the Account for the Program of Education, Research and Information on Beef created pursuant to NRS 561.407 and remitted to the Nevada Beef Council in accordance with the contract entered into pursuant to section 4 of this act.*

3. *A person may, at the time that he pays the special assessment pursuant to this section, request a refund for all or part of the special assessment paid. If a person requests a refund, the brand inspector to whom the assessment is*

paid shall notify the Nevada Beef Council as soon as practicable after receiving the request. The Nevada Beef Council shall, as soon as practicable after receiving the notice, refund to the person an amount of money that is equal to the amount requested by the person.

4. The State Board of Agriculture may audit the financial records or other records of the Nevada Beef Council, or its successor organization, at any time."

Amend sec. 7, page 4, line 5, by deleting: "*including all penalties*,".

Amend sec. 7, page 4, line 8, by deleting: "*assessment and penalties*." and inserting "*assessment*."

Amend the title of the bill to read as follows:

"AN ACT relating to the promotion of beef; requiring the State Department of Agriculture to contract with the Nevada Beef Council for the establishment and administration of a program of education, research and information on beef under certain circumstances; requiring the Department to fix a special assessment on each head of cattle and to submit the money collected from the special assessment to the Nevada Beef Council to carry out the program; providing for the payment of refunds to persons who pay the special assessment; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires State Department of Agriculture to contract with Nevada Beef Council for establishment and administration of program of education, research and information on beef under certain circumstances. (BDR 50-535)".

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 225.

Bill read second time.

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

Amendment No. 369.

Amend the bill as a whole by deleting sections 1 through 7, renumbering sections 8 and 9 as sections 2 and 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

"Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The primary obligation of a vocational rehabilitation counselor is to the injured employee.

2. A vocational rehabilitation counselor shall not provide services as a vocational rehabilitation counselor, including, without limitation, completing a written assessment pursuant to NRS 616C.550, if the employer of the

vocational rehabilitation counselor administers the case of the injured employee."

Amend sec. 8, page 7, by deleting lines 33 through 36 and inserting:

"2. ~~{Ensure that the caseload for a vocational rehabilitation counselor who conducts full vocational assessments does not exceed 35 active claims. 3.}~~ Employ at least one certified vocational rehabilitation".

Amend sec. 8, page 7, by deleting lines 39 through 41 and inserting:

"3. *Employ vocational rehabilitation counselors who have knowledge of the labor market within the geographical area where the injured employee resides."*

Amend sec. 9, page 7, by deleting line 43 and inserting:

"616C.550 1. ~~{Except as otherwise provided in this section, if}~~ *If*".

Amend sec. 9, pages 7 and 8, by deleting line 45 on page 7 and lines 1 and 2 on page 8 and inserting: "employee for more than 90 days, *the insurer or the injured employee may request a vocational rehabilitation counselor* ~~{shall, within 30 days after being assigned to the claim, make}~~ *to prepare a written assessment of the injured employee's ability or*".

Amend sec. 9, page 8, line 24, after "3." by inserting: "*Except as otherwise provided in section 1 of this act, a vocational rehabilitation counselor shall prepare a written assessment not more than 30 days after receiving a request for a written assessment pursuant to subsection 1.*".

Amend sec. 9, page 8, by deleting lines 33 and 34 and inserting:

"5. If an insurer determines that ~~{the}~~ a written assessment ~~{required by this section}~~ requested pursuant to subsection 1 is impractical because of the expected duration of the injured".

Amend sec. 9, page 9, between lines 18 and 19, by inserting:

"8. *Each written assessment of an injured employee must be signed by a certified vocational rehabilitation counselor."*

Amend the bill as a whole by deleting sec. 10 and renumbering sec. 11 as sec. 4.

Amend sec. 11, page 10, line 38, by deleting: "upon passage and approval" and inserting: "on July 1, 2005."

Amend sec. 11, page 10, by deleting lines 39 through 41.

Amend the title of the bill to read as follows:

"AN ACT relating to industrial insurance; setting forth the primary obligation of a vocational rehabilitation counselor; prohibiting a vocational rehabilitation counselor from providing services to an injured employee if the employer of the vocational rehabilitation counselor administers the case of the injured employee; requiring a provider of vocational rehabilitation services to employ certain vocational rehabilitation counselors; requiring a vocational rehabilitation counselor to prepare a written assessment not more than 30 days after it is requested by an insurer or injured employee under certain circumstances; requiring each written assessment of an injured employee to be signed by a certified vocational rehabilitation counselor; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to vocational rehabilitation counselors. (BDR 53-975)".

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 240.

Bill read second time.

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

Amendment No. 370.

Amend sec. 3, page 1, by deleting lines 7 through 13 and inserting:

"Sec. 3. 1. *In addition to the basic health benefit plans and standard health benefit plans that an individual carrier offers to eligible persons, the individual carrier may offer to eligible persons health benefit plans with a health savings account.*

2. *If an individual carrier offers any health benefit plans with a health savings account to eligible persons, each health benefit plan with a health savings account must include all the benefits that are required to be included in one of the basic health benefit plans or standard health benefit plans offered by the individual carrier to eligible persons.*".

Amend the bill as a whole by deleting sec. 6 and renumbering sections 7 through 17 as sections 6 through 16.

Amend sec. 7, page 3, by deleting lines 19 and 20 and inserting: "offered by the individual carrier. ~~[A]~~ Any health benefit ~~[plan]~~ plans filed pursuant to this ~~[section]~~ subsection may not be offered by ~~[an]~~ the individual carrier until the".

Amend sec. 7, page 3, by deleting lines 26 through 29 and inserting:

"2. *Before an individual carrier offers any health benefit plans with a health savings account to eligible persons, the individual carrier shall file with the Commissioner, in a format and manner prescribed by the Commissioner, each health benefit plan with a health savings account to be offered by the individual carrier. Any health benefit plans with a health savings*".

Amend sec. 7, page 3, line 38, by deleting ", or" and inserting "or a".

Amend sec. 7, page 3, line 39, by deleting "account," and inserting "account".

Amend sec. 12, page 4, line 40, by deleting "shall" and inserting "may".

Amend sec. 13, page 5, line 2, by deleting: "14 and 15" and inserting: "13 and 14".

Amend sec. 15, page 5, by deleting lines 7 through 16 and inserting:

"Sec. 14. 1. *In addition to the basic health benefit plans and standard health benefit plans that a carrier offers to small employers, the carrier may offer to small employers health benefit plans with a health savings account.*

2. *If a carrier offers any health benefit plans with a health savings account to small employers, each health benefit plan with a health savings account must include all the benefits that are required to be included in one of the basic health benefit plans or standard health benefit plans offered by the carrier to small employers.*

3. *If a carrier offers any health benefit plans with a health savings account to small employers and the plan provides, delivers, arranges for,".*

Amend sec. 16, page 5, line 26, by deleting "14" and inserting "13".

Amend sec. 17, page 5, line 33, by deleting "15" and inserting "14".

Amend the bill as a whole by deleting sec. 18 and renumbering sections 9 through 21 as sections 17 through 19.

Amend sec. 19, page 6, by deleting lines 22 through 25 and inserting: "health benefit plans and the standard health benefit plans to be offered by the carrier. ~~[A]~~ Any health benefit ~~[plan]~~ plans filed pursuant to this ~~[section]~~ subsection may not be offered by ~~[a]~~ the carrier until the earlier of:".

Amend sec. 19, page 6, by deleting lines 30 through 35 and inserting:

"2. *Before a carrier offers any health benefit plans with a health savings account to small employers, the carrier shall file with the Commissioner, in a format and manner prescribed by the Commissioner, each health benefit plan with a health savings account to be offered by the carrier. Any health benefit plans with a health savings account filed pursuant to this subsection may not be offered by the carrier until the earlier of:*

(a) *The date of approval by the Commissioner; or*

(b) *Thirty days after the date on which the plans are filed, unless the Commissioner disapproves the use of the plans before the 30-day period expires.*

3. *The Commissioner may, at any time, after providing notice and an opportunity for a hearing, disapprove the continued use of a basic or standard health benefit plan or a health benefit plan with a health savings account by a carrier on the ground that the plan does not meet the requirements of NRS 689C.015 to 689C.355, inclusive, and sections 13 and 14 of this act, and 689C.610 to".*

Amend sec. 20, page 6, line 42, by deleting: "14 and 15" and inserting: "13 and 14".

Amend the title of the bill to read as follows:

"AN ACT relating to insurance; allowing certain health insurers to offer health benefit plans that have high deductibles and are in compliance with certain federal requirements for establishing health savings accounts; establishing certain requirements and procedures regarding the offering of such health benefit plans; and providing other matters properly relating thereto.".

Amend the summary of the bill to read as follows:

"SUMMARY—Enacts provisions relating to health benefit plans that have high deductibles and are in compliance with certain federal requirements for establishing health savings accounts. (BDR 57-47)".

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 295.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 387.

Amend sec. 4, page 2, by deleting lines 42 through 44 and inserting:

"(b) "Diesel" or words of similar meaning, including, without limitation, any specific type of diesel, when describing a grade designation".

Amend sec. 4, page 3, between lines 2 and 3 by inserting:

"(d) "Propane," "liquefied petroleum gas," "compressed natural gas," "liquefied natural gas" or words of similar meaning when describing pressurized gases.".

Amend sec. 6, page 4, by deleting lines 33 and 34 and inserting: *"vehicle fuel contained therein [–*

3. ~~Petroleum product delivery~~] or have a product-specific pressure vessel fill connection.

3. Delivery outlets for motor".

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 300.

Bill read second time.

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

Amendment No. 375.

Amend the bill as a whole by renumbering sections 1 through 5 as sections 6 through 10 and adding new sections designated sections 1 through 5, following the enacting clause, to read as follows:

"Section 1. Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Owner" means an owner or lessee of real property who enters into an oral or written agreement with a prime contractor pursuant to which the prime contractor agrees to provide work, materials or equipment for a work of improvement.*

Sec. 3. *"Prime contractor" means a contractor who enters into an oral or written agreement with an owner pursuant to which the prime contractor agrees to provide work, materials or equipment for a work of improvement.*

Sec. 4. *"Work of improvement" has the meaning ascribed to it in NRS 108.22188.*

Sec. 5. NRS 624.606 is hereby amended to read as follows:

624.606 As used in NRS 624.606 to ~~624.640,~~ 624.630, inclusive, and sections 2, 3 and 4 of this act, the words and terms defined in NRS 624.607 and 624.608 and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections."

Amend section 1, page 1, by deleting lines 2 through 7 and inserting:

"624.607 "Higher-tiered ~~{subcontractor}"~~ contractor" means a *prime contractor* or subcontractor ~~{under a contract}~~ who has entered into an oral or written ~~{subcontract with another}~~ agreement with a lower-tiered subcontractor pursuant to which the ~~{other}~~ lower-tiered subcontractor has agreed to ~~{perform any of the duties of the subcontractor under the oral or written subcontract.}~~ provide work, materials or equipment for a work of improvement."

Amend sec. 2, page 1, by deleting lines 9 through 12 and inserting:

"624.608 "Lower-tiered subcontractor" means a subcontractor who has agreed in an oral or written ~~{contract to perform any of the duties of another subcontractor under another oral or written subcontract.}~~ agreement with a higher-tiered contractor to provide work, materials or equipment for a work of improvement."

Amend sec. 3, page 2, by deleting lines 1 through 3 and inserting: "enters into a written or oral ~~{contract}~~ agreement with a *prime* contractor for the performance of work or the provision of materials or equipment by the *prime* contractor, the owner must:

(a) Pay ~~{that}~~ the *prime* contractor on or before the date a payment is due".

Amend sec. 3, page 2, by deleting line 5 and inserting: "~~{contract.}~~ agreement; or".

Amend sec. 3, page 2, line 6, by deleting "contract" and inserting "~~{contract}~~ agreement".

Amend sec. 3, page 2, by deleting line 7 and inserting: "pay the *prime* contractor within 21 days after the date the *prime* contractor".

Amend sec. 3, page 2, line 10, after "to the" by inserting "*prime*".

Amend sec. 3, page 2, line 12, by deleting: "contract ~~{,}~~ ," and inserting "~~{contract.}~~ agreement,".

Amend sec. 3, page 2, line 20, by deleting "contract" and inserting "~~{contract}~~ agreement".

Amend sec. 3, page 2, line 26, by deleting: "the contractor or his subcontractors" and inserting: "the *prime* contractor or his lower-tiered subcontractors".

Amend sec. 3, page 2, line 29, after "by the" by inserting "*prime*".

Amend sec. 3, page 2, line 30, before "subcontractors" by inserting "*lower-tiered*".

Amend sec. 3, page 2, by deleting lines 41 and 42 and inserting: "withhold any amount from a payment to be made to a *prime* contractor, the owner must".

Amend sec. 3, page 2, line 44, by deleting: "contractor of ~~any~~ the *additional*" and inserting: "*prime* contractor of any".

Amend sec. 3, page 3, line 2, after "the" by inserting "*prime*".

Amend sec. 3, page 3, line 5, by deleting "contract," and inserting "~~contract,~~ agreement,".

Amend sec. 3, page 3, line 7, before "contractor" by inserting "*prime*".

Amend sec. 3, page 3, by deleting line 9 and inserting:

"4. A *prime* contractor who receives a notice of *withholding* pursuant to subsection 3".

Amend sec. 3, page 3, line 10, after "condition" by inserting: "*or reason for the withholding*".

Amend sec. 3, page 3, line 11, after "correction" by inserting: "*of the condition or reason for the withholding*".

Amend sec. 3, page 3, line 14, after "condition" by inserting: "*or reason for the withholding*".

Amend sec. 3, page 3, line 15, before "contractor." by inserting "*prime*".

Amend sec. 3, page 3, by deleting line 16 and inserting: "written notice from the *prime* contractor of the correction of a condition *or reason for the withholding*".

Amend sec. 3, page 3, line 19, before "contractor;" by inserting "*prime*".

Amend sec. 3, page 3, line 21, by deleting "condition," and inserting: "condition ~~or~~ *or reason for the withholding*,".

Amend sec. 3, page 3, line 22, before "contractor," by inserting "*prime*".

Amend sec. 3, page 3, line 24, by deleting "condition," and inserting: "condition ~~or~~ *or reason for the withholding*,".

Amend sec. 3, page 3, line 25, before "contractor," by inserting "*prime*".

Amend sec. 3, page 3, line 26, before "contractor's" by inserting "*prime*".

Amend sec. 3, page 3, line 27, after "conditions" by inserting: "*or reasons for the withholding*".

Amend sec. 4, page 3, lines 35 and 38, before "contractor" by inserting "*prime*".

Amend sec. 4, page 3, line 40, by deleting "or".

Amend sec. 4, page 3, line 41, by deleting "*contractor*" and inserting: "*prime contractor in good faith and for reasonable cause*".

Amend sec. 4, page 3, by deleting line 43 and inserting:
"NRS 624.609; or

(d) *Within 30 days after the date that a request for a change order is submitted by the prime contractor to the owner, the owner fails to:*

(1) *Issue the change order; or*

(2) *If the request for a change order is unreasonable, give written notice to the prime contractor of the reasons why the change order is unreasonable.*"

Amend sec. 4, page 3, line 44, before "contractor" by inserting "prime".

Amend sec. 4, pages 3 and 4, by deleting line 45 on page 3 and lines 1 through 7 on page 4, and inserting: "owner at least 10 days before stopping work.

2. If a *prime* contractor stops work pursuant to ~~[this subsection]~~ paragraph (a), (b) or (c) of subsection 1, the *prime* contractor may terminate the ~~[contract]~~ agreement by giving written notice of termination to the owner after stopping work but at least 15 days before terminating the ~~[contract]~~ agreement. If the *prime* contractor is paid the amount due before the date for termination of the ~~[contract]~~ agreement set forth in the written notice, the *prime* contractor shall not terminate the ~~[contract]~~ agreement and shall resume his work.

~~[2.]~~ 3. *If an owner fails to issue a change order or give written notice to the prime contractor pursuant to the provisions of paragraph (d) of subsection 1:*

(a) *The agreement price must be increased by the amount sought in the request for a change order;*

(b) *The time for performance must be extended by the amount sought in the request for a change order;*

(c) *The prime contractor may submit to the owner a bill or invoice for the labor, materials, equipment or services that are the subject of the request for a change order; and*

(d) *The owner shall pay the prime contractor for such labor, materials, equipment or services with the next payment made to the prime contractor.*

4. If the owner through his own act or neglect, or through an".

Amend sec. 4, page 4, by deleting line 11 and inserting:

"*prime* contractor may terminate the ~~[contract]~~ agreement if:"

Amend sec. 4, page 4, line 12, before "contractor" by inserting "prime".

Amend sec. 4, page 4, line 13, by deleting "contract;" and inserting "~~[contract]~~ agreement;"

Amend sec. 4, page 4, line 16, by deleting:

"3. If a" and inserting:

~~[3.]~~ 5. If a *prime*".

Amend sec. 4, page 4, line 17, by deleting: "contract by giving the" and inserting: "~~[contract]~~ agreement by giving the *prime*".

Amend sec. 4, page 4, by deleting lines 19 through 22 and inserting: "the ~~[contract]~~

~~[4.]~~ agreement.

6. If the ~~[contract]~~ agreement is terminated pursuant to subsection ~~[2.]~~ 4, or if the *prime* contractor stops work in accordance with this section and the ~~[contract]~~ agreement is terminated pursuant to subsection 1 or ~~[3.]~~ 5, the *prime* contractor is".

Amend sec. 4, page 4, lines 24 and 26, before "contractor," by inserting "*prime*".

Amend sec. 4, page 4, line 27, by deleting: "contractor incurred or earned" and inserting: "*prime* contractor ~~incurred or~~ and his lower-tiered subcontractors and suppliers earned or incurred".

Amend sec. 4, pages 4 and 5, by deleting lines 29 through 45 on page 4 and lines 1 through 11 on page 5, and inserting:

"(b) The *balance of the* profit that the *prime* contractor and his lower-tiered subcontractors and suppliers would have received if the ~~contract~~ agreement had been performed in full;

(c) Interest ~~[at a rate equal to the rate agreed upon in the contract or, if no interest rate is so provided, then interest at a rate 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 the case may be, immediately preceding:~~

(1) ~~The time the contract was signed; or~~

(2) ~~If the contract was oral, the time the terms of the contract were agreed to by the parties,~~

~~plus 2 percent;~~ determined pursuant to NRS 624.630; and

(d) The reasonable costs, including court and arbitration costs, incurred by the *prime* contractor and his lower-tiered subcontractors in collecting the amount due.

~~[At]~~ In any action brought to enforce the rights or obligations set forth in this subsection, the trier of fact may award reasonable attorney's fees to the *prime* contractor or, if the trier of fact determines that the *prime* contractor stopped work or terminated the ~~contract~~ agreement without reasonable cause, the trier of fact may award reasonable attorney's fees and costs, including court and arbitration costs, to the owner.

~~[5.]~~ 7. If a *prime* contractor stops work pursuant to subsection 1, each lower-tiered subcontractor with whom the *prime* contractor has ~~contracted~~ entered into an agreement and who has not fully performed under that ~~contract~~ agreement may also stop work on the ~~project~~ work of improvement. If a *prime* contractor terminates ~~a contract~~ an agreement pursuant to this section, all such lower-tiered subcontractors may terminate their ~~contracts~~ agreements with the *prime* contractor.

~~[6.]~~ 8. The right of a *prime* contractor to stop work or terminate ~~a contract~~ an agreement".

Amend sec. 4, page 5, lines 13 and 14, before "contractor" by inserting "*prime*".

Amend sec. 4, page 5, line 15, by deleting "contract" and inserting: "~~contract~~ agreement with the owner".

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

~~[7.]~~ 9. No *prime* contractor or ~~his~~ lower-tiered subcontractors, or their respective".

Amend sec. 4, page 5, by deleting line 18 and inserting: "may suffer as a result of the *prime* contractor ~~[subcontractor]~~ or lower-".

Amend sec. 4, page 5, line 19, by deleting "a contract" and inserting: "~~[a contract]~~ *an agreement*".

Amend sec. 5, page 5, lines 25 and 29, before "contractor" by inserting "*prime*".

Amend sec. 5, page 5, line 42, by deleting "contract" and inserting "~~[contract]~~ *agreement*".

Amend sec. 5, page 5, line 44, by deleting "contract;" and inserting "~~[contract;]~~ *agreement;*".

Amend sec. 5, page 6, line 3, by deleting: "contractor or his" and inserting: "*prime* contractor or his *lower-tiered*".

Amend sec. 5, page 6, line 7, by deleting "construction contract," and inserting: "~~[construction contract;]~~ *agreement,*".

Amend sec. 5, page 6, by deleting lines 8 and 9 and inserting: "furnished by the ~~[contractor's subcontractors, suppliers or employees. For the purposes of this paragraph:]~~".

Amend sec. 5, page 6, line 16, after "~~received;]~~" by inserting: "*prime* contractor or his *lower-tiered* subcontractors".

Amend sec. 5, page 6, line 20, before "contractor," by inserting "*prime*".

Amend sec. 5, page 6, line 21, before "contractor" by inserting "*prime*".

Amend sec. 5, page 6, line 24, before "contractor;" by inserting "*prime*".

Amend sec. 5, page 6, line 27, by deleting "contract," and inserting: "~~[contract;]~~ *agreement with the prime contractor,*".

Amend sec. 5, page 6, lines 29 and 31, before "contractor" by inserting "*prime*".

Amend sec. 5, page 6, by deleting lines 32 and 33 and inserting: "may correct any condition described in the notice and thereafter provide written notice to the owner of the correction of ~~[a condition described in the notice received pursuant to subsection 3.]~~ the condition."

Amend sec. 5, page 6, lines 36 and 37, before "contractor" by inserting "*prime*".

Amend sec. 5, page 7, line 1, before "contractor," by inserting "*prime*".

Amend sec. 5, page 7, line 2, before "contractor's" by inserting "*prime*".

Amend sec. 5, page 7, line 7, by deleting "projects" and inserting: "~~[projects]~~ *works of improvement*".

Amend sec. 5, page 7, by deleting lines 10 through 26 and inserting: "the *prime* contractor.

~~[6. Unless otherwise provided in the construction contract, any money which is payable to a contractor pursuant to this section accrues interest at a rate equal to the lowest daily prime rate at the largest bank in this State, as determined by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding:~~

~~(a) The time the contract was signed; or~~

(b) If the contract was oral, the time the terms of the contract were agreed to by the parties;

➔ plus 2 percent.

7. This section does not apply to:

(a) Any residential building; or

(b) Public works.

8. As used in this section, unless the context otherwise requires, "work of improvement" has the meaning ascribed to it in NRS 108.22188."

Amend the bill as a whole by renumbering sections 6 and 7 as sections 12 and 13 and adding a new section designated sec. 11, following sec. 5, to read as follows:

"Sec. 11. NRS 624.622 is hereby amended to read as follows:

624.622 1. A *prime* contractor shall provide a copy of any notice given to an owner pursuant to subsection 1 or 2 of NRS 624.610 to each *lower-tiered* subcontractor with whom the *prime* contractor has ~~contracted who has not fully performed under that contract.~~ entered into an agreement. Upon receipt of payment pursuant to NRS 624.609, the *prime* contractor shall notify all such *lower-tiered* subcontractors in writing of his receipt of payment.

2. A condition, stipulation or provision in ~~a contract or other~~ an agreement which ~~requires~~ :

(a) Requires a *prime* contractor to waive any rights provided in this section, NRS 624.609 , ~~or~~ 624.610, 624.620 or 624.630, or which limits those rights ~~[-]~~ ;

(b) Relieves an owner of any obligation or liability imposed pursuant to NRS 624.606 to 624.630, inclusive, and sections 2, 3 and 4 of this act; or

(c) Requires a *prime* contractor to waive, release or extinguish a claim or right for damages or an extension of time that the *prime* contractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the time the agreement was entered into, or for which the *prime* contractor is not responsible,

➔ is against public policy and is void ~~[-]~~ and unenforceable.

3. All notices required pursuant to this section, NRS 624.609 , ~~and~~ 624.610 and 624.620 must be:

(a) Delivered personally, in which case the *prime* contractor shall obtain a notarized statement from the person who delivered the notice as proof of delivery;

(b) Sent by facsimile and delivered by regular mail, in which case the *prime* contractor shall retain proof of a successful transmission of the facsimile;

(c) Delivered by certified mail; or

(d) Delivered in the manner provided for in the ~~contract~~ agreement.

4. This section, NRS 624.609 , ~~and~~ 624.610 , 624.620 and 624.622 do not apply to ~~a contract~~ an agreement between:

(a) A ~~residential~~ *prime* contractor and a natural person who owns a single-family residence for the performance of qualified services with respect to the residence; ~~and~~ or

(b) A public body and a *prime* contractor for the performance of work and labor on a public work.

5. Within 5 days after an owner receives a written request for the information set forth in paragraphs (a), (b) and (c) from a *lower-tiered* subcontractor, ~~[with respect to a subcontract that has not been fully performed,]~~ the owner shall notify the *lower-tiered* subcontractor in writing of the following:

- (a) The date the owner made a specified payment to his *prime* contractor;
- (b) Whether the owner has paid the entire amount of a specified payment to his *prime* contractor; and
- (c) The amount withheld by the owner from a specified payment to the *prime* contractor and the reason for the withholding."

Amend sec. 6, page 7, by deleting lines 29 through 45 and inserting: "*higher-tiered* contractor ~~for higher-tiered subcontractor~~ enters into:

(a) A written ~~[subcontract]~~ *agreement* with a *lower-tiered* subcontractor that includes a schedule for payments, the *higher-tiered* contractor ~~for higher-tiered subcontractor~~ shall pay the *lower-tiered* subcontractor:

- (1) On or before the date payment is due; or
 - (2) Within 10 days after the date the *higher-tiered* contractor ~~for higher-tiered subcontractor~~ receives payment for all or a portion of the work, ~~[labor, materials, equipment or services]~~ *materials or equipment* described in a request for payment submitted by the *lower-tiered* subcontractor,
- ↪ whichever is earlier.

(b) A written ~~[subcontract]~~ *agreement* with a *lower-tiered* subcontractor that does not contain a schedule for payments, or ~~[a subcontract]~~ *an agreement* that is oral, the *higher-tiered* contractor ~~for higher-tiered subcontractor~~ shall pay the *lower-tiered* subcontractor:

- (1) Within 30 days after the date the *lower-tiered* subcontractor submits a request for payment; or
- (2) Within 10 days after the date the *higher-tiered* contractor ~~for higher-tiered subcontractor~~ receives payment for all or a portion of the".

Amend sec. 6, page 8, line 2, before "subcontractor," by inserting "*lower-tiered*".

Amend sec. 6, page 8, by deleting lines 4 through 10 and inserting:

"2. If a *higher-tiered* contractor ~~for higher-tiered subcontractor~~ has complied with subsection 3, the *higher-tiered* contractor ~~for higher-tiered subcontractor~~ may:

- (a) Withhold from any payment owed to the *lower-tiered* subcontractor:
 - (1) A retention amount that the ~~[subcontractor]~~ *higher-tiered* contractor is authorized to withhold pursuant to the ~~[contract]~~ *agreement*, but the retention amount withheld must not exceed 10 percent of the payment that is required pursuant to subsection 1;".

Amend sec. 6, page 8, line 17, by deleting "subcontract" and inserting "[~~subcontract~~] agreement".

Amend sec. 6, page 8, by deleting lines 20 through 24 and inserting:

"(3) The amount the owner [~~contractor or higher-tiered subcontractor~~] or *higher-tiered contractor* has paid or is required to pay pursuant to an official notice from a state agency or employee benefit trust fund, for which the owner [~~contractor or higher-tiered subcontractor~~] or *higher-tiered contractor* is or may reasonably be liable for the *lower-tiered* subcontractor or his *lower-tiered* subcontractors in".

Amend sec. 6, page 8, by deleting lines 28 and 29 and inserting: "amount due, lien releases furnished by the *lower-tiered* subcontractor [~~and his lower-tiered subcontractors and suppliers. For purposes of this~~"]".

Amend sec. 6, pages 8 and 9, by deleting lines 40 through 45 on page 8 and line 1 on page 9, and inserting:

"3. If, pursuant to subparagraph (2) or (3) of paragraph (a) of subsection 2 or paragraph (b) of subsection 2, a *higher-tiered* contractor [~~or higher-tiered subcontractor~~] intends to withhold any amount from a payment to be made to a *lower-tiered* subcontractor, the *higher-tiered* contractor [~~or higher-tiered subcontractor~~] must give, on or before the date the payment is due, a written notice to the *lower-tiered* subcontractor of any amount".

Amend sec. 6, page 9, line 3, by deleting "subcontractors," and inserting "[~~subcontractors,~~]"

Amend sec. 6, page 9, line 6, before "subcontractor;" by inserting "*lower-tiered*".

Amend sec. 6, page 9, by deleting line 8 and inserting: "*higher-tiered* contractor [~~or higher-tiered subcontractor~~] will withhold that amount,".

Amend sec. 6, page 9, line 10, by deleting "subcontract," and inserting: "[~~subcontract,~~] agreement with the *lower-tiered* subcontractor,".

Amend sec. 6, page 9, line 12, before "subcontractor" by inserting "*lower-tiered*".

Amend sec. 6, page 9, by deleting lines 13 through 18 and inserting:

"(c) Be signed by an authorized agent of the *higher-tiered* contractor . [~~or higher-tiered subcontractor~~]

4. A *lower-tiered* subcontractor who receives a notice of withholding pursuant to subsection 3 may dispute in good faith and for reasonable cause the amount withheld or reasons for the withholding by providing written notice to the *higher-tiered* contractor, or may correct any condition or reason for the withholding described in the notice and thereafter provide written notice to the *higher-tiered* contractor [~~or higher-tiered subcontractor~~] of the correction of [~~a condition described in the notice received pursuant to subsection 3,~~] the condition or reason for the withholding. The notice of correction".

Amend sec. 6, page 9, by deleting lines 20 through 27 and inserting: "of the condition or reason for the withholding and be signed by an authorized representative of the *lower-tiered* subcontractor. If a *higher-tiered* contractor

~~{or higher-tiered subcontractor}~~ receives a written notice from the *lower-tiered* subcontractor of the correction of a condition *or reason for the withholding* pursuant to this subsection, the *higher-tiered* contractor ~~{or higher-tiered subcontractor must}~~ shall:

(a) Pay the amount withheld by the *higher-tiered* contractor ~~{or higher-tiered subcontractor}~~ for that condition on or before the date the next payment is due the *lower-tiered* subcontractor; or".

Amend sec. 6, page 9, line 29, by deleting "condition," and inserting: "condition ~~{,}~~ *or reason for the withholding*,".

Amend sec. 6, pages 9 and 10, by deleting lines 30 through 45 on page 9 and lines 1 through 11 on page 10, and inserting: "*lower-tiered* subcontractor, in a written statement which sets forth the reason for the objection and which complies with subsection 3. If the *higher-tiered* contractor ~~{or higher-tiered subcontractor}~~ objects to the scope and manner of the correction of a condition ~~{,}~~ *or reason for the withholding*, he shall nevertheless pay to the *lower-tiered* subcontractor, along with payment made pursuant to the *lower-tiered* subcontractor's next payment request, the amount withheld for the correction of conditions *or reasons for the withholding* to which the *higher-tiered* contractor ~~{or higher-tiered subcontractor}~~ no longer objects.".

Amend sec. 7, page 10, by deleting lines 13 through 26 and inserting:

"624.626 1. If ~~{a contractor or higher-tiered subcontractor fails to:~~

~~{(a) Pay}~~ :

(a) *A higher-tiered contractor fails to pay the lower-tiered subcontractor within the time provided in subsection 1 or 4 of NRS 624.624;*

(b) ~~{Pay}~~ *A higher-tiered contractor fails to pay the lower-tiered subcontractor within 45 days after the 25th day of the month in which the lower-tiered subcontractor submits a request for payment, even if the higher-tiered contractor ~~{or higher-tiered subcontractor}~~ has not been paid and the ~~{subcontract}~~ agreement contains a provision which requires the higher-tiered contractor ~~{or higher-tiered subcontractor}~~ to pay the lower-tiered subcontractor only if or when the higher-tiered contractor ~~{or higher-tiered subcontractor}~~ is paid; ~~{or~~*

~~{(c) Give}~~

(c) *A higher-tiered contractor fails to give the lower-tiered*".

Amend sec. 7, page 10, line 28, by deleting "or".

Amend sec. 7, pages 10 and 11, by deleting lines 29 through 45 on page 10 and line 1 on page 11, and inserting:

"(d) *After receipt of a notice of withholding pursuant to subsection 3 or 4 of NRS 624.624, the lower-tiered subcontractor gives the higher-tiered contractor written notice pursuant to subsection 4 of NRS 624.624 and thereby disputes in good faith and for reasonable cause the amount withheld or the condition or reason for the withholding; or*

(e) *Within 30 days after the date that a request for a change order is submitted by the lower-tiered subcontractor to the higher-tiered contractor, the higher-tiered contractor fails to:*

(1) *Issue the change order; or*

(2) *If the request for a change order is unreasonable, give written notice to the lower-tiered subcontractor of the reasons why the change order is unreasonable,*

➡ *the lower-tiered subcontractor may stop work under the ~~subcontract~~ agreement until payment is received if the lower-tiered subcontractor gives written notice to the higher-tiered contractor ~~for higher-tiered subcontractor~~ at least 10 days before stopping work.*

2. *If a lower-tiered subcontractor stops work pursuant to paragraph (a) , ~~for~~ (c) or (d) of subsection 1, the lower-tiered subcontractor may terminate the ~~subcontract~~ agreement with the higher-tiered contractor by giving written notice of the termination to the higher-tiered contractor ~~for higher-tiered subcontractor~~ after stopping work but at least 15 days before the termination of the ~~subcontract~~ agreement. If the lower-tiered subcontractor is paid the amount due before the date for termination set forth in the written notice, the lower-tiered subcontractor shall not terminate the ~~subcontract~~ agreement and shall resume work.*

3. *If a higher-tiered contractor fails to issue a change order or fails to give written notice pursuant to paragraph (e) of subsection 1:*

(a) *The agreement price must be increased by the amount sought in the request for a change order;*

(b) *The time for performance must be extended by the amount sought in the request for a change order;*

(c) *The lower-tiered subcontractor may submit to the higher-tiered contractor a bill or invoice for the labor, materials, equipment or services that are the subject of the request for a change order; and*

(d) *The higher-tiered contractor shall pay the lower-tiered subcontractor for such labor, materials, equipment or services with the next payment made to the lower-tiered subcontractor.*

4. *If an owner ~~contractor or higher-tiered subcontractor~~ or higher-tiered contractor".*

Amend sec. 7, page 11, line 5, before "subcontractor" by inserting "lower-tiered".

Amend sec. 7, page 11, line 6, by deleting "subcontract" and inserting "~~subcontract~~ agreement".

Amend sec. 7, pages 11 and 12, by deleting lines 7 through 45 on page 11 and lines 1 through 22 on page 12, and inserting:

"(a) The lower-tiered subcontractor gives written notice of his intent to terminate to the higher-tiered contractor ~~for higher-tiered subcontractor~~ at least 10 days before terminating the ~~subcontract~~ agreement; and

(b) The higher-tiered contractor ~~for higher-tiered subcontractor~~ fails to allow the lower-tiered subcontractor to resume the work within the time set forth in the written notice given pursuant to paragraph (a).

~~[4.]~~ 5. *If a lower-tiered subcontractor stops work pursuant to paragraph (a) , ~~for~~ (c) or (d) of subsection 1, the higher-tiered contractor ~~for~~*

~~higher-tiered subcontractor~~ may terminate the ~~[subcontract]~~ *agreement* by giving the *lower-tiered* subcontractor written notice of his intent to terminate at least 15 days before terminating the ~~[subcontract]~~.

~~5.] agreement.~~

6. If the ~~[subcontract]~~ *agreement* is terminated pursuant to subsection ~~[3.]~~ 4, or if the *lower-tiered* subcontractor stops work in accordance with this section and the ~~[subcontract]~~ *agreement* is terminated pursuant to subsection 2 or ~~[4.]~~ 5, the *lower-tiered* subcontractor is entitled to recover from the *higher-tiered* contractor ~~[or higher-tiered subcontractor]~~ with whom he has ~~[contracted]~~ *entered into an agreement* the amount found by a trier of fact to be due the *lower-tiered* subcontractor, including, without limitation:

(a) The cost of all work, labor, materials, equipment and services furnished by and through the *lower-tiered* subcontractor, including any ~~[profit and]~~ overhead the *lower-tiered* subcontractor and his *lower-tiered subcontractors and suppliers* incurred ~~[or]~~ and any profit the *lower-tiered subcontractor and his lower-tiered subcontractors and suppliers* earned through the date of termination;

(b) The *balance of the profit* that the *lower-tiered* subcontractor and his *lower-tiered subcontractors and suppliers* would have received if the ~~[subcontract]~~ *agreement* had been performed in full;

(c) Interest ~~[at a rate equal to the rate agreed upon in the subcontract or, if no interest rate is so provided, interest at a rate 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 the case may be, immediately preceding:~~

(1) The time the subcontract was signed; or

(2) If the subcontract was oral, the time the terms of the subcontract were agreed upon by the parties;

~~plus 2 percent;~~ determined pursuant to NRS 624.630; and

(d) The reasonable costs, including court costs ~~[.]~~ and arbitration costs, incurred by the *lower-tiered* subcontractor and his *lower-tiered subcontractors* in collecting the amount due.

~~➤ [At]~~ In any action brought to enforce the rights or obligations set forth in this subsection, the trier of fact ~~[may]~~ shall award reasonable attorney's fees to the *lower-tiered* subcontractor or, if the trier of fact determines that the *lower-tiered* subcontractor stopped work or terminated the ~~[contract]~~ *agreement* without reasonable cause, the trier of fact may award reasonable attorney's fees and costs, including court costs and arbitration costs, to the *higher-tiered* contractor. ~~[or higher-tiered subcontractor]~~.

~~6.]~~ 7. If a *lower-tiered* subcontractor stops work pursuant to this section, each *lower-tiered* subcontractor with whom the *lower-tiered* subcontractor has ~~[contracted]~~ *entered into an agreement* and who has not fully performed under the ~~[contract]~~ *agreement* may also stop work on the ~~[project.]~~ *work of improvement*. If a *lower-tiered* subcontractor terminates ~~[a subcontract]~~ an

agreement pursuant to this section, all ~~[such]~~ of his lower-tiered subcontractors may terminate their ~~[contracts]~~ agreements with the lower-tiered subcontractor.

~~[7.]~~ 8. The right of a lower-tiered subcontractor to stop work or terminate ~~[a subcontract]~~ an agreement pursuant to this section is in addition to all other rights that the lower-tiered subcontractor may have at law or in equity and does not impair or affect the right of a lower-tiered subcontractor to maintain a civil action or to submit any controversy arising under the ~~[contract]~~ agreement to arbitration.

~~[8.]~~ 9. No lower-tiered subcontractor or his lower-tiered subcontractors, or their respective sureties, may be held liable for any delays or damages that an owner ~~[, contractor]~~ or higher-tiered ~~[subcontractor]~~ contractor may suffer as a result of the ~~[subcontractor or]~~ lower-tiered subcontractor stopping his work or terminating ~~[a subcontract]~~ an agreement for reasonable cause and in accordance with this section."

Amend the bill as a whole by adding new sections designated sections 14 through 17, following sec. 7, to read as follows:

"Sec. 14. NRS 624.628 is hereby amended to read as follows:

624.628 1. A lower-tiered subcontractor shall provide a copy of any notice given to a higher-tiered contractor ~~[or higher-tiered subcontractor]~~ pursuant to this section or NRS 624.624 or 624.626 to each lower-tiered subcontractor with whom the lower-tiered subcontractor has ~~[contracted]~~ entered into an agreement and who has not fully performed under the ~~[contract]~~ agreement. Upon receipt of payment pursuant to NRS 624.624, the lower-tiered subcontractor shall notify all ~~[such]~~ of his lower-tiered subcontractors in writing of his receipt of payment.

2. A lower-tiered subcontractor shall provide a copy of any notice given to a higher-tiered contractor ~~[or higher-tiered subcontractor]~~ pursuant to this section or NRS 624.624 or 624.626 to ~~[each reputed higher-tiered subcontractor, contractor]~~ all other higher-tiered contractors and the owner, if known. The failure of a lower-tiered subcontractor to comply with this subsection does not invalidate any notice otherwise properly given.

3. A condition, stipulation or provision in ~~[a subcontract or other]~~ an agreement which ~~[requires]~~ :

(a) Requires a lower-tiered subcontractor to waive any rights provided in this section or NRS 624.624 ~~[or 624.626,]~~ 624.626 or 624.630 or which limits those rights ~~[;]~~ ;

(b) Relieves a higher-tiered contractor of any obligation or liability imposed pursuant to this section, NRS 624.624, 624.626 or 624.630; or

(c) Requires a lower-tiered subcontractor to waive, release or extinguish a claim or right for damages or an extension of time that the lower-tiered subcontractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the

time the agreement was entered into, or for which the lower-tiered subcontractor is not responsible,

↪ is against public policy and is void ~~[and]~~ and unenforceable.

4. All notices required pursuant to this section or NRS 624.624 or 624.626 must be:

(a) Delivered personally, in which case the *lower-tiered* subcontractor shall obtain a notarized statement from the person who delivered the notice as proof of delivery;

(b) Sent by facsimile and delivered by regular mail, in which case the *lower-tiered* subcontractor shall retain proof of a successful transmission of the facsimile;

(c) Delivered by certified mail; or

(d) Delivered in the manner provided in the ~~[contract]~~ agreement between the higher-tiered contractor and the lower-tiered subcontractor.

5. Within 5 days after ~~[a]~~ the owner or any higher-tiered contractor receives a written request for the information set forth in paragraphs (a), (b) and (c) from a *lower-tiered* subcontractor with respect to ~~[a subcontract]~~ an agreement that has not been fully performed, the owner or higher-tiered contractor shall notify the *lower-tiered* subcontractor in writing of the following:

(a) The date the owner or higher-tiered contractor made a specified payment to ~~[his]~~ the prime contractor or lower-tiered subcontractor;

(b) Whether the owner or higher-tiered contractor has paid ~~[his]~~ the prime contractor or lower-tiered subcontractor the entire amount of a specified payment; and

(c) The amount withheld by the owner or higher-tiered contractor of a specified payment to his *prime contractor* or lower-tiered subcontractor and the reason for the withholding.

Sec. 15. NRS 624.630 is hereby amended to read as follows:

624.630 ~~[1. Each contractor shall disburse money paid to him pursuant to NRS 624.620, including any interest which he receives, to his subcontractors and suppliers within 15 days after he receives the money, in direct proportion to the subcontractors' and suppliers' basis in the total contract between the contractor and the owner.~~

~~2.] Any money which is payable to a prime contractor, higher-tiered contractor or lower-tiered subcontractor pursuant to [this section] NRS 624.609, 624.610, 624.620, 624.624, 624.626 or 624.628 accrues interest from the time it becomes due at a rate equal to the [lowest daily prime rate at the three largest United States banking institutions on the date the contract is executed plus 2 percent, from 15 days after the date on which the money was received by the contractor] rate agreed upon in the agreement between the parties or, if no interest rate is so provided, then interest at a rate 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 the case may be, immediately preceding:~~

1. *The time at which the agreement was signed; or*
2. *If the agreement was oral, the time at which the terms of the agreement were agreed to by the parties,*

↪ *plus 4 percent until the date of payment.*

Sec. 16. NRS 99.040 is hereby amended to read as follows:

99.040 1. When there is no express contract in writing fixing a different rate of interest, interest must be allowed at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the transaction, plus 2 percent, upon all money from the time it becomes due, in the following cases:

- (a) Upon contracts, express or implied, other than book accounts.
- (b) Upon the settlement of book or store accounts from the day on which the balance is ascertained.
- (c) Upon money received to the use and benefit of another and detained without his consent.
- (d) Upon wages or salary, if it is unpaid when due, after demand therefor has been made.

↪ The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

2. The provisions of this section do not apply to money owed [-

~~(a) For the construction of a work of improvement pursuant to NRS 624.620; or~~

~~(b) By a contractor to his subcontractor]~~ pursuant to *chapter 624 of NRS which is governed by the provisions of NRS 624.630.*

Sec. 17. This act becomes effective on July 1, 2005."

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and 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. 371.

Amend sec. 2, page 2, line 17, by deleting "*shall*" and inserting "*may*".

Amend sec. 2, page 2, line 30, after "3." by inserting: "*The Division may refuse to issue a license as a real estate broker or broker-salesman pursuant to subsection 2 to a person who has committed any act or offense that would be grounds for denying a license to an applicant or taking disciplinary action against a licensee pursuant to this chapter.*

4."

Amend sec. 4, page 3, line 13, by deleting "*shall*" and inserting "*may*".

Amend sec. 4, page 3, line 14, by deleting "each" and inserting "a".

Amend sec. 4, page 3, by deleting lines 17 through 21 and inserting:
"chapter or any regulations adopted pursuant thereto if:

(a) The Division makes a request during the course of the audit for the real estate broker to produce, provide access to or grant authorization to the Division to inspect or obtain any documentation related to the business of a real estate broker which the broker is required to maintain pursuant to NRS 645.310 and any regulations adopted pursuant to this chapter;

(b) The real estate broker fails to comply with the request within a reasonable time established by the Division; and

(c) The Division has reasonable cause to believe that the requested documentation will assist it in investigating whether the real estate broker has committed any act or offense that would be grounds for taking disciplinary action against the real estate broker.

2. *If the Administrator charges a real estate broker for the costs and fees of an audit pursuant to subsection 1, the Administrator shall bill the real estate broker upon the completion of the audit. The costs and fees must be paid within 90 days after the date the real estate broker receives the bill."*

Amend sec. 4, page 3, by deleting lines 28 and 29 and inserting:

"3. The failure of a real estate broker to pay any costs and fees as required by this section".

Amend sec. 8, pages 4 and 5, by deleting line 45 on page 4 and lines 1 and 2 on page 5, and inserting:

"salesman pursuant to subsection 1 unless a licensed real estate broker-salesman who is qualified pursuant to section 5 of this act is associated with the owner-developer as a sales manager to oversee the activities of the real estate".

Amend sec. 15, page 11, line 42, by deleting "by" and inserting "[by] with".

Amend the title of the bill, fourth line, by deleting "requiring" and inserting: "authorizing, under certain circumstances,".

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Townsend disclosed that his wife is a licensed broker.

Senator Nolan disclosed that he is a licensed broker.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 333.

Bill read second time.

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

Amendment No. 372.

Amend the bill as a whole by deleting sections 1 through 5 and renumbering sec. 6 as section 1.

Amend sec. 6, page 4, by deleting lines 12 through 14 and inserting: "from ~~leasing~~ :

(a) *Leasing* space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board ~~[-]~~ and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) *Leasing* space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession."

Amend sec. 6, page 4, line 22, after "subsection" by inserting: "remains under the jurisdiction of the regulatory body which governs his business or profession and".

Amend sec. 6, page 4, by deleting line 24 and inserting:

"4. As used in this section ~~[-,"provider"]~~ :

(a) "Provider of health care" means a".

Amend sec. 6, page 4, between lines 27 and 28, by inserting:

"(b) "Space" includes, without limitation, a separate room in the cosmetological establishment."

Amend the bill as a whole by deleting sec. 7 and renumbering sections 8 through 12 as sections 2 through 6.

Amend sec. 9, page 5, by deleting lines 20 through 23 and inserting: "under the immediate supervision of a licensed instructor who has had practical experience of at least 1 year in the practice of a majority of the branches of cosmetology in an established place of business."

Amend sec. 9, page 6, by deleting lines 10 through 20 and inserting: "licensure in the field of massage therapy if:

(a) *The school of cosmetology has obtained all licenses, authorizations and approvals required by state and local law to offer such a course or program; and*

(b) *With regard to that portion of the premises where the school of cosmetology offers courses included in the cosmetological curriculum, the school of cosmetology continues to comply with the provisions of this chapter and any regulations adopted pursuant thereto."*

Amend sec. 10, page 6, line 22, after "following" by inserting "minimum".

Amend sec. 11, page 6, line 35, by deleting "644.425, 644.473" and inserting "644.425".

Amend the text of repealed sections by deleting the text of NRS 644.473.

Amend the title of the bill as follows:

"AN ACT relating to professions; revising and repealing various provisions governing the regulation of cosmetological establishments and schools of cosmetology; authorizing operators of cosmetological establishments to lease space to other professionals; increasing the number of instructors required in a school of cosmetology; authorizing schools of

cosmetology to offer courses or programs relating to massage therapy; revising the number of classroom hours required of certain cosmetological students; and providing other matters properly relating thereto."

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Hardy, Titus, Mathews, Raggio and Beers.

Senator Hardy disclosed that his wife is a licensed cosmetologist and a salon owner.

Senators Beers, Hardy and Nolan moved the previous question.

Motion carried.

The question being on the adoption of Amendment No. 372 to Senate Bill No. 333.

Senators Amodei, Mathews and Coffin requested a roll call vote on Senator Carlton's motion.

Roll call on Senator Carlton's motion:

YEAS—17.

NAYS—Amodei, Coffin, Horsford—3.

EXCUSED—Schneider.

The motion having received a majority, Madam President declared it carried.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 335.

Bill read second time.

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

Amendment No. 373.

Amend sec. 21, page 11, line 10, by deleting "shall" and inserting "[shall] may".

Amend sec. 21, page 11, line 14, by deleting "leasing" and inserting: "[leasing] :

(a) Leasing".

Amend sec. 21, page 11, line 16, by deleting "Board." and inserting: "Board [-] and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession."

Amend sec. 21, page 11, line 24, after "subsection" by inserting: "remains under the jurisdiction of the regulatory body which governs his business or profession and".

Amend sec. 24, page 12, line 30, by deleting "[following]" and inserting "following".

Amend sec. 24, page 12, by deleting line 32 and inserting: "members of the public:".

Amend sec. 24, page 12, by deleting lines 33 through 39 and inserting:

"1. A student enrolled as a cosmetologist must receive ~~[250]~~ *at least 300* hours.

2. A student enrolled as a hair designer must receive ~~[250]~~ *at least 300* hours.

3. A student enrolled as a manicurist must receive ~~[80]~~ *at least 100* hours.

4. A student enrolled as an electrologist's apprentice must receive *at least 150* hours.

5. A student enrolled as an aesthetician must receive ~~[100]~~ *at least 120* hours."

Amend the bill as a whole by deleting sec. 25 and renumbering sections 26 through 28 as sections 25 through 27.

Amend sec. 27, page 14, by deleting lines 25 through 29 and inserting:

"644.473 It is unlawful for ~~[any]~~ :

1. *Any* licensed cosmetological establishment ~~[-~~

~~1. To engage primarily in the business of cutting men's hair; or~~

~~2. To~~ *to* represent itself to the public as primarily engaged in the business of cutting men's hair ~~[-]~~ ; *or*

2. *Any person licensed pursuant to this*".

Amend the bill as a whole by adding a new section designated sec. 28, following sec. 28, to read as follows:

"Sec. 28. NRS 644.425 and 644.477 are hereby repealed."

Amend the bill as a whole by adding the text of repealed sections, following section 30, to read as follows:

"

TEXT OF REPEALED SECTION

644.425 Temporary educational permit; unlawful acts.

1. The Board may grant a temporary educational permit authorizing a current licensee within the scope of his license to conduct demonstrations and exhibitions, temporarily and primarily for educational purposes, of techniques for the benefit and instruction of cosmetologists, hair designers, aestheticians, electrologists and manicurists licensed pursuant to this chapter, and electrologists' apprentices, cosmetologists' apprentices and students enrolled in licensed schools of cosmetology.

2. The permit must specify the purpose for which it is granted, the period during which the person is permitted to conduct the demonstrations and exhibitions, which may not exceed 10 days, and the time and place of exercising the privilege granted by the permit.

3. A person may be granted a temporary educational permit only if he:

(a) Applies to the Board for the permit;

(b) Demonstrates to the satisfaction of the Board that the permit is sought primarily for educational purposes; and

(c) Pays a fee of not less than \$10 and not more than \$25.

➔ Except for schools licensed pursuant to this chapter, an application for a permit must be submitted at least 10 days before the date of the demonstration or exhibit.

4. It is unlawful:

(a) For any person to conduct a demonstration or exhibition without a permit.

(b) For any person who is granted a permit to allow persons other than cosmetologists, hair designers, aestheticians, electrologists and manicurists licensed pursuant to this chapter, and electrologists' apprentices, cosmetologists' apprentices and students enrolled in licensed schools of cosmetology to attend any demonstration or exhibition made or given by him.

644.477 Unlawful to practice other professions in cosmetological establishment; exceptions. Except as otherwise provided in NRS 644.360, it is unlawful for the operator of a cosmetological establishment to practice or allow the practice of any profession other than cosmetology in that establishment."

Amend the title of the bill, fourteenth line, after "professions;" by inserting: "revising various provisions governing the regulation of cosmetological establishments and schools of cosmetology;"

Senator Carlton moved the adoption of the amendment.

Senator Hardy disclosed that his wife is a licensed cosmetologist and a salon owner.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 368.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 343.

Amend sec. 4, pages 9 and 10, by deleting lines 44 and 45 on page 9 and line 1 on page 10, and inserting: "*administrators employed by the school district*:"

1. *The primary focus of that scheduled professional development must be to improve the achievement of the*".

Amend sec. 4, page 10, line 4, by deleting "*applicable; or*" and inserting "*applicable*".

Amend sec. 4, page 10, line 5, by deleting "*Structured*" and inserting: "*The scheduled professional development must be structured*".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Senate in recess at 12:20 p.m.

SENATE IN SESSION

At 12:21 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senate Bill No. 396.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 272.

Amend sec. 5, page 5, lines 14 and 15, by deleting: "*offer consultation, upon request, and*".

Amend the bill as a whole by renumbering sec. 9 as sec. 12 and adding new sections designated sections 9 through 11, following sec. 8, to read as follows:

"Sec. 9. NRS 459.520 is hereby amended to read as follows:

459.520 1. The Commission shall adopt regulations for the granting, renewal, modification, suspension, revocation and denial of permits.

2. If the local government within whose territory a facility for the treatment, storage or disposal of hazardous waste is to be located requires that a special use permit or other authorization be obtained for such a facility or activity, the application to the Department for a permit to operate such a facility must show that local authorization has been obtained. This requirement does not apply to an application for a permit to construct a utility facility that is subject to the provisions of NRS 704.820 to 704.900, inclusive.

3. Permits may contain terms and conditions which the Department considers necessary and which conform to the provisions of regulations adopted by the Commission.

4. Permits may be issued for any period of not more than 5 years.

5. A permit may not be granted or renewed if the Director determines that granting or renewing the permit is inconsistent with any regulation of the Commission relating to hazardous waste or with the plan for management of hazardous waste developed pursuant to NRS 459.485. The provisions of this subsection do not apply to a permit granted or under review before July 1, 1987.

6. The Department may suspend or revoke a permit pursuant to the Commission's regulations if the holder of the permit fails or refuses to comply with the terms of the permit or a regulation of the Commission relating to hazardous waste.

7. *A permit may not be granted, renewed or modified for a facility for the disposal of hazardous waste that proposes to construct or operate a landfill unless the Director determines that the landfill is or will be constructed to include at least one liner and a leachate collection and removal system designed to prevent the migration of waste or leachate to the adjacent subsurface soils, groundwater and surface water.*

8. *As used in this section:*

(a) *"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land-treatment facility, a surface impoundment, an underground-injection well, a salt-dome formation, a salt-bed formation, an underground mine or a cave.*

(b) *"Liner" means a continuous layer of man-made material installed beneath and on the sides of a landfill which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents or leachate, and prevents the migration of waste to the adjacent subsurface soils, groundwater and surface water.*

(c) *"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from a landfill.*

(d) *"Leachate collection and removal system" means a layer of granular or synthetic materials installed above a liner and operated in conjunction with drains, pipes, sumps and pumps or other means designed to collect and remove leachate from a landfill.*

Sec. 10. NRS 459.545 is hereby amended to read as follows:

459.545 1. ~~{The}~~ *Except as otherwise provided in subsection 3, the Commission may by regulation adopt a procedure under which an applicant or holder of a permit may demonstrate that a standard he proposes would offer protection of human health, public safety and the environment which is equivalent to a standard of the Commission.*

2. ~~{The}~~ *Except as otherwise provided in subsection 3, the Commission may specify certain standards which may be considered for substitution pursuant to this section.*

3. *The Commission may not by regulation adopt a procedure or specify a standard which would allow a facility for the disposal of hazardous waste to construct or operate a landfill in a manner that fails to comply with the requirements of subsection 7 of NRS 459.520.*

Sec. 11. NRS 459.546 is hereby amended to read as follows:

459.546 1. ~~{The}~~ *Except as otherwise provided in subsection 4, the owner or operator of a facility for the treatment, storage or disposal of hazardous waste or a person who wishes to construct such a facility may apply to the Commission for a variance from its applicable regulations. The Commission may grant a variance only if, after a public hearing on due notice, it finds from a preponderance of the evidence that:*

(a) The facility or proposed facility, under the worst adverse conditions, does not or will not endanger or tend to endanger the environment and human health or safety; and

(b) Compliance with the regulations would produce serious hardship without equal or greater benefits to the environment or public.

2. The Commission shall not grant a variance unless it has considered in the following order of priority the interests of:

(a) The public;

(b) Other owners of property likely to be affected by the emissions or discharge; and

(c) The applicant.

3. The Commission may:

(a) Upon granting a variance, impose certain conditions upon the applicant; or

(b) Revoke the variance if the applicant fails to comply with those conditions.

4. *The Commission shall not grant a variance from its applicable regulations that would allow a facility for the disposal of hazardous waste to construct or operate a landfill in a manner that fails to comply with the requirements of subsection 7 of NRS 459.520."*

Amend the bill as a whole by adding a new section designated sec. 13, following sec. 9, to read as follows:

"Sec. 13. The amendatory provisions of sections 9, 10 and 11 of this act do not apply to an existing landfill that undergoes or commences closure on or before December 31, 2005."

Amend the title of the bill to read as follows:

"AN ACT relating to waste; revising the scope of activity for certain fees regarding waste disposal and management; revising the provisions regarding searches and inspections of solid waste disposal facilities; revising the provisions regarding the disposal of motor vehicle batteries, tires and oil; revising the use of injunctions when regulating solid waste; creating a program for reducing and recycling solid waste from businesses in certain counties; revising the notice for the acceptance of used vehicle tires during the retail sale of new tires; authorizing certain grants for solid waste management; revising various provisions regarding permits, procedures, standards and variances for landfills; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Revises various provisions regarding waste disposal and regulation. (BDR 40-401)".

Senator Rhoads moved the adoption of the amendment.

Remarks by Senators Rhoads and Titus.

Senator Titus requested that Senator Rhoads' remarks be entered in the Journal.

SENATOR RHOADS:

Yes, it definitely does strengthen the requirements. The mining companies and other entities supported the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 342.

Amend sec. 6, page 2, by deleting line 22 and inserting:

"(b) A copy of the report to the employee that was provided to the".

Amend sec. 6, page 2, by deleting line 35 and inserting:

"(b) A copy of the report to the employee that was provided to the".

Amend sec. 6, page 3, by deleting line 7 and inserting:

"(b) A copy of the report to the employee that was provided to the".

Amend sec. 7, page 3, line 23, by deleting "notice" and inserting: *"a copy of the report"*.

Amend sec. 7, page 3, by deleting lines 27 and 28 and inserting: *"act may:*

(a) Petition the Department to have the report removed from the records of the Department; and

(b) Appeal a decision of the Department to deny a petition submitted pursuant to paragraph (a);".

Amend sec. 7, page 3, line 32, by deleting "and".

Amend sec. 7, page 3, line 40, by deleting "administrators." and inserting: *"administrators; and*

6. The manner in which a person who is the subject of a report forwarded pursuant to subsection 5 may petition the Department to have the report removed from the records of the entity to which it was forwarded."

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 434.

Bill read second time.

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

Amendment No. 374.

Amend the bill as a whole by renumbering sections 1 through 12 as sections 4 through 15 and adding new sections designated sections 1 through 3, following the enacting clause, to read as follows:

"Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *A person shall not, directly or indirectly, perform or offer to perform, for a fee, any work concerning a residential swimming pool or spa or any consultation or supervision concerning such work or otherwise hold himself out as being able to perform such acts for a fee, unless the person holds:*

1. *A license as a contractor or subcontractor under state law which authorizes the person to perform such acts for a fee; or*

2. *Any other license, certificate, registration or permit under state law which authorizes the person to perform such acts for a fee.*

Sec. 3. 1. *The Board shall adopt regulations to provide for classifications of licensing that authorize a contractor who performs work concerning a residential swimming pool or spa to perform, in connection with such work, the installation of:*

(a) *Plumbing, including, without limitation, connections to potable water; and*

(b) *Gas lines.*

2. *The regulations adopted by the Board must include, without limitation, regulations establishing the qualifications, training and examinations that are required for such classifications."*

Amend section 1, page 2, line 2, by deleting "inclusive:" and inserting: "inclusive ~~[]~~, and sections 2 and 3 of this act:".

Amend section 1, page 2, line 12, by deleting "means:" and inserting: "means any of the following acts, if performed for a fee:".

Amend section 1, page 3, line 1, by deleting "selling,".

Amend section 1, page 3, lines 10 and 11, by deleting "including connection to potable water,".

Amend section 1, page 3, by deleting line 14 and inserting: "packaged pool heaters. *The scope of such work also includes the installation of plumbing, including, without limitation, connections to potable water, and the installation of gas lines if the contractor holds classifications for such work pursuant to section 3 of this act.*"

Amend sec. 3, page 4, line 14, by deleting "~~[\$1,000]~~ \$2,000" and inserting "\$1,000".

Amend sec. 3, page 4, line 39, after "inclusive," by inserting: "and sections 2 and 3 of this act".

Amend sec. 4, page 5, line 28, by deleting "~~[\$1,000]~~ \$2,000" and inserting "\$1,000".

Amend sec. 4, page 7, lines 14 and 17, after "inclusive," by inserting: "and sections 2 and 3 of this act".

Amend sec. 8, page 9, line 24, after "597.719" by inserting: "or section 2 of this act".

Amend sec. 9, page 9, line 42, after "inclusive," by inserting: "or section 2 or 3 of this act".

Amend sec. 9, page 10, line 4, by deleting "inclusive." and inserting: "inclusive ~~[]~~, or section 2 or 3 of this act.".

Amend sec. 9, page 10, line 6, by deleting "inclusive:" and inserting: "inclusive ~~[]~~, or section 2 or 3 of this act:".

Amend sec. 10, page 11, line 38, by deleting "10," and inserting "9,".

Amend sec. 10, page 11, by deleting lines 43 and 44 and inserting "2001;".

Amend sec. 10, page 12, by deleting lines 10 through 17 and inserting: "within any 15-day period,

→ the contractor shall comply with the provisions of subsection 8.

8. ~~[A]~~ *Except as otherwise provided in subsection 9, a contractor*".

Amend sec. 10, pages 12 and 13, by deleting lines 39 through 44 on page 12 and lines 1 through 23 on page 13, and inserting:

"9. *After a contractor who performs work concerning a residential swimming pool or spa has acted in the capacity of a licensed contractor in the State of Nevada for not less than 5 consecutive years, the Board may relieve the contractor of the requirements of subsection 8 if evidence supporting such relief is presented to the Board. The Board may at any time thereafter require the contractor to obtain a performance bond and a payment bond pursuant to subsection 8 if:*

(a) Evidence is presented to the Board supporting this requirement;

(b) The Board determines that the contractor has violated one or more of the provisions of NRS 624.301 to 624.305, inclusive;

(c) The contractor has entered into a contract on or after July 1, 2001, that is later found to be void and unenforceable against the owner pursuant to subsection 5 of NRS 597.719 or pursuant to any regulation adopted by the Board with respect to contracts for work concerning a residential pool or spa; or

(d) The contractor has five valid complaints filed against him with the Board within any 15-day period.

10. As used in this section, "substantiated claim for wages" has".

Amend sec. 12, page 14, line 12, after "597.719" by inserting: "or section 2 of this act".

Amend the bill as a whole by deleting sections 13 through 15.

Amend the title of the bill to read as follows:

"AN ACT relating to contractors; prohibiting a person from performing, for a fee, any work on residential pools or spas without the proper license or other authorization under state law; requiring the State Contractors' Board to adopt classifications of licensing that authorize contractors who perform work on residential pools and spas to install plumbing and gas lines in connection with such work; revising the scope of the provisions regulating contractors who perform work on residential pools and spas; allowing the Board to relieve certain contractors who perform work on residential pools and spas from the requirement to obtain performance and payment bonds under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Care.

Senator Hardy requested that his remarks be entered in the Journal.

We did work hard on that piece of legislation. The legislation Senator Care sponsored years ago has worked phenomenally well. I would say Senate Bill No. 434 "fine tunes" the previous legislation. It does relieve some contractor obligations such as permitting them, after five years, to opt out of the bonding process. That part could be considered less permissive. Most of the participants in this legislation, especially the Nevada State Contractors Board, felt enough progress had been achieved, and they agreed to the bonding opt-out section of the legislation.

I commend the work of the Senator from North Las Vegas, District 1, for the phenomenal piece of work he did on this legislation. The Senator from District 7 will recall the difficulty we had a few years ago while trying to get this through.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 444.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 364.

Amend section 1, page 1, line 8, by deleting "*requiring*".

Amend section 1, page 2, line 6, after "*section.*" by inserting: "*In considering such a request, the Chairman of the Board shall consider all relevant factors, including, without limitation:*

- (1) *The size of the area;*
- (2) *The amount of gaming that occurs within the area;*
- (3) *The types and quantity of gaming offered;*
- (4) *The business purpose of the area;*
- (5) *Other amenities that are offered within the area;*
- (6) *The amount of the costs and expenses incurred in creating the area;*
- (7) *The benefit to the State in having gaming conducted within the area;*
- (8) *The amount of the fee charged and whether the fee charged is unreasonable as compared to the prevailing practice within the industry; and*
- (9) *Whether the area should more appropriately be treated as a gaming salon.*

➡ *The decision of the Chairman of the Board regarding such a request may be appealed by the gaming licensee to the Commission pursuant to its regulations."*

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Senator Raggio moved that Senate Bill No. 444 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Senator Raggio moved that the Senate recess until 1:35 p.m.

Motion carried.

Senate in recess at 1:31 p.m.

SENATE IN SESSION

At 1:36 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senator Raggio withdrew his motion on Senate Bill No. 444.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 450.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 318.

Amend section 1, page 1, after line 15, by inserting:

"(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime."

Amend section 1, page 2, lines 23 and 24, by deleting: *"in the manner provided by rule of the court;"* and inserting: *"pursuant to the Nevada Rules of Civil Procedure;"*.

Amend sec. 6, page 7, lines 22 and 23, by deleting: *"in the manner provided by rule of the court;"* and inserting: *"pursuant to the Nevada Rules of Civil Procedure;"*.

Amend the title of the bill to read as follows:

"AN ACT relating to protective orders; making various changes to the provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence and for the protection of children; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes to provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence and for protection of children. (BDR 15-1407)".

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 458.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 341.

Amend sec. 2, page 4, line 26, by deleting "if" and inserting "unless".

Amend sec. 2, page 4, by deleting lines 31 through 34 and inserting: "the county will participate in the study. The county must".

Amend sec. 2, page 4, line 40, by deleting "determined not" and inserting "not elected".

Amend sec. 3, page 5, line 13, by deleting "July" and inserting "October".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Conflict of interest declared by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 460.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 340.

Amend sec. 5, page 4, line 34, after "biennium." by inserting: "The Superintendent of Public Instruction shall not approve a plan submitted pursuant to this section unless the plan is being requested to eliminate or reduce the need for team teaching or because the school district lacks sufficient physical facilities to comply with subsection 1 of NRS 388.700.".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 79.

Bill read second time and ordered to third reading.

Assembly Bill No. 178.

Bill read second time and ordered to third reading.

Assembly Bill No. 227.

Bill read second time and ordered to third reading.

Assembly Bill No. 243.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that Senate Bill No. 30 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

Senator Hardy moved that Senate Bill No. 110 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

Senator Hardy moved that Senate Bill No. 306 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

Senator McGinness moved that Senate Bill No. 167 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator McGinness.

Motion carried.

Senator Nolan moved that Senate Bill No. 13 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Nolan.

Motion carried.

Senator Coffin moved that Senate Bill No. 126 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Coffin.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 4.

Bill read third time.

Remarks by Senator Raggio.

Roll call on Senate Bill No. 4:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 4 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 43.

Bill read third time.

Remarks by Senators Carlton, Washington and Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Mr. President pro Tempore, I would like to note for the record that this should become effective only when 35 states have adopted this measure. There will be a letter of intent authorized for this bill. That letter will indicate that advising the agency to approach Interim Finance Committee or the Legislature for funding to implement this when the 35 states have adopted the new compact for juveniles.

Roll call on Senate Bill No. 43:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 43 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 150.

Bill read third time.

Roll call on Senate Bill No. 150:

YEAS—15.

NAYS—Beers, Care, Coffin, Mathews, Titus—5.

EXCUSED—Schneider.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 181.

Bill read third time.

Roll call on Senate Bill No. 181:

YEAS—16.

NAYS—Carlton, Mathews, Titus—3.

NOT VOTING—Raggio.

EXCUSED—Schneider.

Senate Bill No. 181 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 198.

Bill read third time.

Roll call on Senate Bill No. 198:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 198 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 201.

Bill read third time.

Roll call on Senate Bill No. 201:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 201 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 307.

Bill read third time.

Roll call on Senate Bill No. 307:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 316.

Bill read third time.

Roll call on Senate Bill No. 316:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 316 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 331.

Bill read third time.

Roll call on Senate Bill No. 331:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 331 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 339.

Bill read third time.

Roll call on Senate Bill No. 339:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 339 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 347.

Bill read third time.

Roll call on Senate Bill No. 347:

YEAS—19.

NAYS—None.

NOT VOTING—Raggio.

EXCUSED—Schneider.

Senate Bill No. 347 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 382.

Bill read third time.

Roll call on Senate Bill No. 382:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 382 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 472.

Bill read third time.

Roll call on Senate Bill No. 472:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Senate Bill No. 472 having received a constitutional majority,
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 97.

Bill read third time.

Roll call on Assembly Bill No. 97:

YEAS—20.

NAYS—None.

EXCUSED—Schneider.

Assembly Bill No. 97 having received a constitutional majority,
Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly
Concurrent Resolutions Nos. 18, 19.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate
Chamber for this day was extended to Rachel Walls.

On request of Senator Care, the privilege of the floor of the Senate
Chamber for this day was extended to Robert D. Faiss.

On request of Senator Mathews, the privilege of the floor of the Senate
Chamber for this day was extended to the following students and teacher
from Wooster High School: Alberto Ayala, Ruth Bravo, Samantha Cardnuto,

Victoria Costello, Gary Deppey, Silvano Herrera, Jeremy Joustra, Teresa Martin, Andrew Marton, Derek McCabe, Stacy Mitchell, Keith Nelson, Vanessa Ortega, Justin Palylyk, Susana Partida, Jessica Perez, Diane Sawyer, Jessica Seltzer, Juan Silva, Ashley Spiker, Lynda Sutman, Peter Mark Villegas, Kiyouni Weibye, Shelby Young, Carmen Villanueva, Tom Parton, Angel Aguirre, Tamara Davis, Joyce Dawkins, Efren Galindo, Diana Galvan, Brett Jacoby, Erika Kamper, Derrick Mastalka, Casey McCabe, Roberto Perez, Jacob Rasner, Charlotte Rivinius, Claudia Roman, Chanelle Sisia, Erik Torres, Natasha Wolfe, Ryan Adler, Amanda Arrington, Victoria Butterworth, Michelle Carral, Tiffany Casino, Elisabeth Castro, Yareli Chavez, Samantha Cray, Charles Dimino, Daniel Dupree, Amanda James, David Jayme, Octavio Maldonado, Michael McGough, Stephanie Murga, Margaret Olheiser, Christopher Rabe, Jesse Rasner, Cameron Regan, Adam Roa, Jayson Robbins, Carlos Sandoval, Roman Schomberg, Adam Segura, Nicholas Triplett, Claire Walker, Cole Watson, Koelyn Weeks, Joshua Wilson, Lindsey Winner, Mark Zaski, Stevielyn Webber and teacher: Valerie Bayard de Volo-Fine.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Dean Richard J. Morgan.

On request of Senator Wiener, the privilege of the floor of the Senate Chamber for this day was extended to Mary Lee, Dorothy Gardner, Bobbie Talso, Jan Browne, Mary Liveratti, Peg McCall, Diana Glomb, Karen Priest, Marilyn Brainard and Joyce Duncan.

Senator Raggio moved that the Senate adjourn until Thursday, April 21, 2005, at 11 a.m.

Motion carried.

Senate adjourned at 2:04 p.m.

Approved:

MARK E. AMODEI
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate