

THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), June 3, 2007

Assembly called to order at 11:13 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Lord, we have several requests of You in these last hours of this 74th Session of the Legislature. First, let us thank You for the experience and great efficiency put forth here by our leadership and front desk staff. This chamber has never run so smoothly.

We ask, if it be Your will, that whoever here is headed home to “get horseback” and that all our horses be topped off. If You cannot see Your way to do that, then perhaps you would give us a soft place to land should we happen to get bucked off. And speaking of soft ground, we ask, too, that those folks who might be going camping or on vacations that take them to motels and such, that they also have a soft place to lie about, whether it be on the ground or in bed. We are just asking for a little comfort after this arduous journey. Lord, we would not mind it at all if the *cocinero* back home learned some new recipes—a change of food when we got there wouldn’t hurt any of us. But mostly, Lord, we ask that You send us all home safely so we can once again get back to our regular lives. We end by thanking You for the knowledge You provided this body to make the lives of all of us who live in this great State of Nevada better off and because of the work that You allowed to be accomplished here.

We ask these things in Whose Name we pray.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Assembly Committee on Ways and Means and the Senate Committee on Finance:

Assembly Bill No. 628—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2007, and ending June 30, 2008, and beginning July 1, 2008, and ending June 30, 2009; providing for the use of the money so appropriated; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 331, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 205, 544; Senate Bill No. 341, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 89, 93, 141, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 2, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 158, 469.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 161, Amendments Nos. 990, 1111, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 246, Amendment No. 1120; Assembly Bill No. 291, Amendment No. 1110, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 166.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 13.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 471.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Amodei, Wiener and Washington as a first Conference Committee concerning Senate Bill No. 131.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Cegavske, McGinness and Woodhouse as a first Conference Committee concerning Senate Bill No. 239.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Horsford, Heck and Wiener as a first Conference Committee concerning Senate Bill No. 266.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Lee, Raggio and Hardy as a first Conference Committee concerning Senate Bill No. 516.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

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

Assembly in recess at 11:21 a.m.

ASSEMBLY IN SESSION

At 11:23 a.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 628, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 380, 444, 455, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 628 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 166.

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

Motion carried.

Senate Bill No. 471.

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

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 246.

The following Senate amendment was read:

Amendment No. 1120.

SUMMARY—~~[Increases the number of district judges in the Second and Eighth Judicial Districts.]~~ **Makes various changes concerning district judges.** (BDR 1-654)

AN ACT relating to courts; **creating a Tenth Judicial District;** increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Second and Eighth Judicial Districts who must be judges of the family court; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill **creates a Tenth Judicial District for the Counties of Churchill and Mineral consisting of two district judges. Churchill County is removed from the Third Judicial District in section 1.3 and the number of judges in that district is reduced from three to two.**

Section 1.5 of this bill increases the number of district judges in the Second Judicial District, which includes Washoe County, from 12 to 14. (NRS 3.010, 3.012) Both of the additional district judges must be judges of the family court, increasing the number of judges of the family court in the Second Judicial District from 4 to 6. (NRS 3.012)

Section 2 of this bill increases the number of district judges in the Eighth Judicial District, which includes Clark County, from 37 to ~~44~~ **43** (NRS 3.010, 3.018) Five of the ~~7~~ **6** additional district judges must be judges of the family court, increasing the number of judges of the family court in the Eighth Judicial District from 13 to 18. (NRS 3.018)

~~Section~~ **Sections 4 and 4.5** of this bill makes an appropriation to pay for the salaries of the additional district judges.

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

Section 1. Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:

For the Tenth Judicial District there must be two district judges.

Sec. 1.3. NRS 3.010 is hereby amended to read as follows:

3.010 The State is hereby divided into ~~nine~~ **10** judicial districts, as follows:

First Judicial District. Carson City and the County of Storey constitute the First Judicial District.

Second Judicial District. The County of Washoe constitutes the Second Judicial District.

Third Judicial District. The ~~Counties of Churchill and~~ **County of** Lyon ~~constitute~~ **constitutes** the Third Judicial District.

Fourth Judicial District. The County of Elko constitutes the Fourth Judicial District.

Fifth Judicial District. The Counties of ~~Mineral~~ Esmeralda and Nye constitute the Fifth Judicial District.

Sixth Judicial District. The Counties of Lander, Pershing and Humboldt constitute the Sixth Judicial District.

Seventh Judicial District. The Counties of Eureka, White Pine and Lincoln constitute the Seventh Judicial District.

Eighth Judicial District. The County of Clark constitutes the Eighth Judicial District.

Ninth Judicial District. The County of Douglas constitutes the Ninth Judicial District.

Tenth Judicial District. The Counties of Churchill and Mineral constitute the Tenth Judicial District.

~~[Section 1.]~~ **Sec. 1.5.** NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~[12]~~ **14** district judges, ~~[4]~~ **6** of whom must be judges of the family court.

Sec. 1.7. NRS 3.013 is hereby amended to read as follows:

3.013 For the Third Judicial District there must be ~~[three]~~ **two** district judges.

Sec. 2. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[37]~~ ~~[44]~~ **43** district judges, ~~[13]~~ **18** of whom must be judges of the family court.

Sec. 3. The additional district judges required for the Second Judicial District pursuant to section ~~[4]~~ **1.5** of this act, ~~[and]~~ the additional district judges required for the Eighth Judicial District pursuant to section 2 of this act **and the additional district judge required for the Tenth Judicial District pursuant to section 1 of this act** must be selected at the general election held on November 4, 2008, and take office on January 5, 2009. The terms of these judges expire on January 5, 2015.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of ~~[\$786,913]~~ **\$959,616** for the salaries of the additional district judges required pursuant to sections 1, **1.5** and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 4.5. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of \$787,779 for the salaries of the additional district judges required pursuant to sections 1, 1.5 and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. 1. This section and sections 3 and 5 of this act become effective on October 1, 2007.

2. Section 4 of this act becomes effective on July 1, 2008 ~~[if]~~, **if Senate Bill No. 248 of this Session is enacted by the Legislature and approved by the Governor.**

3. **Section 4.5 of this act becomes effective on July 1, 2008, only if section 4 of this act does not become effective.**

4. Sections 1 ~~[and 2]~~ **to 2, inclusive**, of this act become effective on January 5, 2009.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 246.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 161.

The following Senate amendment was read:

Amendment No. 990.

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; **authorizing the Commissioner to conduct certain investigations**; increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; **revising various provisions governing industrial insurance**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.230-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner ~~(of Insurance)~~ when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a

report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines “tangible net worth” for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

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

Section 1. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.

2. The Commissioner may:

(a) Use employees of the Division as investigators; or

(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall determine the qualifications required of such investigators, except that no investigator who provides services pursuant to this paragraph may be in the classified service of the State.

3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:

(a) Travel within or outside this State; and
(b) Cooperate with appropriate agencies or persons within or outside this State.

4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.

5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.

6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.290.

7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid.

~~{Section 1.}~~ **Sec. 1.03.** NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~{The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

4.] The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as otherwise provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~for~~ other than a parent corporation, ~~for~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~policy~~:

(1) Policy loans authorized under NRS 682A.170 ~~for~~; or

(2) Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer.

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. **1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.**

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days

after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.

Sec. 1.5. *1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:*

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, **and section 1.5 of this act**, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 *1.* Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the

administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~{Except as otherwise provided in this paragraph, a}~~ A financial statement of the administrator that has been ~~{audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been}~~ reviewed by an independent certified public accountant . ~~{if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.}~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~{On or before September 1 of each year, the}~~ **The** Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

- (a) Attained the age of 18 years;
- (b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;
- (c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;
- (d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and
- (e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ **authorized to transact business on behalf of** the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~}; and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~[affiliation with]~~ **authorization to transact business on behalf of** a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of

insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors *of the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not

prorated must not exceed ~~[\$150]~~ **\$300** for each member insurer for any ~~one~~ **1** calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to **a change in the rate for** a policy of industrial insurance ~~[-] which is based on:~~

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes

cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{, a person}~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2.}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3.}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. **Except as otherwise provided in subsection 2:**

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ **(b)** The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ **(c)** The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4-}~~ **(d)** Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~to a person~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization,

not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard

to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.—Except}~~

(d) The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~{or certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.}~~ , **contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.** Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996,

Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~[-]~~ **or the product offered.**

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify

any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~{a claim is closed under the policy,}~~ **the end of a calendar quarter**, submit a report to the Commissioner concerning ~~{the claim.}~~ **each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter.** The report must include, without limitation:

(a) The name and address of the claimant and the insured under ~~{the}~~ **each** policy;

(b) A statement setting forth the circumstances of ~~{the}~~ **that** case;

(c) Information indicating whether any payment was made on ~~{the}~~ **a** claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144 ~~{-}~~ **for each claim.**

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~{1-}~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~{2-}~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. **The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured**

home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS **683A.321, 683A.331**, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

- (a) For a pure captive insurer, not less than ~~[\$100,000;]~~ **\$200,000;**
- (b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ **\$500,000;**
- (c) For an agency captive insurer, not less than ~~[\$300,000;]~~ **\$600,000;**
- (d) For a rental captive insurer, not less than ~~[\$400,000;]~~ **\$800,000;** and
- (e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ **\$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital **and surplus** required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital **or surplus** based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~[-]~~ **and surplus**, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital **and surplus** required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

- (a) The captive insurer:
 - (1) Is insolvent or has impaired its required capital or surplus;
 - (2) Has failed to meet a requirement of NRS 694C.250, ~~[694C.260,]~~ 694C.320 or 694C.330;

(3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;

(4) Has failed to comply with the provisions of its charter or bylaws;

(5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(a) Is first approved in writing by the Commissioner;

(b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer , ~~or~~ rental captive insurer **or sponsored captive insurer** shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once:~~

~~(a) Every 6 months for the first~~ **not less frequently than once every 3** years , ~~after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
~~→~~ conduct an examination of ~~the~~ **an organization for dental care** pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he

deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~{2}~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ **commenced must be filed in the manner and form established by the receiver and** set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ **that** amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ **must** be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~shall~~ **must** be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~or as directed by the court.~~

3. ~~Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.~~ **Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:**

(a) Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and

(b) If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.

4. **The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.**

5. **The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.**

6. **The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.**

7. *Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.*

8. *If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:*

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

9. *A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.*

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.

2. Chapter 679B of NRS.

3. NRS 683A.261.

4. NRS 683A.301.

5. NRS 683A.311.

6. **NRS 683A.331.**

7. NRS 683A.341.

~~{7.}~~ 8. NRS 683A.361.

~~{8.}~~ 9. NRS 683A.400.

~~{9.}~~ 10. NRS 683A.451.

~~{10.}~~ 11. NRS 683A.461.

~~{11.}~~ 12. NRS 683A.480.

~~{12.}~~ 13. NRS 683A.500.

~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, **and section 29.5 of this act.**

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~[]~~ , **and section 29.5 of this act.**

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means **the value of** all ~~of~~ the assets , **minus the value of all the liabilities**, of an association of self-insured private employers or of a member of such an association except:

1. ~~[Accounts receivable, if they are factored or collateralized.~~
2. ~~An inventory, except one held for resale and not collateralized.~~
3. ~~A prepaid expense.~~
4. ~~An unqualified investment.~~
5. ~~An allocated bond fund.~~
6. ~~An investment in an affiliate.~~
7. ~~A restricted fund.~~
8. ~~A reserve.~~
9. ~~A security cost, such as a capitalized bond cost.~~
10. ~~A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
11. ~~A contingency or commitment, including any estimated cost.~~
12. ~~Any book adjustment caused by a change in an accounting policy or a restatement.~~

~~13.]~~ Goodwill or excess cost over the fair market value of assets.

~~[14.]~~ **2.** Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. **For the purposes of this subsection, an employer has sufficient financial resources if the employer has:**

(a) A tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the

Department of Business and Industry by an independent certified public accountant; or

(b) Net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

(1) The number of members in the association;

(2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;

(3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;

(4) The number of years the association has been in existence; and

(5) Such other information as the Commissioner deems necessary.

➔ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall maintain ~~to~~ **either:**

(a) A combined tangible net worth of all members in the association of at least \$2,500,000 ~~to~~, as evidenced by a statement of tangible net worth

provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

- (a) Have a tangible net worth of at least \$500,000; or
- (b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

- (a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

- (b) Has ~~to~~ **either:**

- (1) A combined tangible net worth of all members in the association of at least \$5,000,000; or**

- (2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;**

- (c) Has at least 15 members; and

- (d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

- (a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

- (b) Has ~~to~~ **either:**

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~30~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

(a) The association's certificate was obtained by fraud;

(b) The application for certification contained a material misrepresentation;

(c) The association is found to be insolvent;

(d) The association fails to have five or more members;

(e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;

(g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or

(h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~{-}~~, **and section 29.5 of this act.**

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall

report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

- (a) For a pure captive insurer, not less than \$100,000;
- (b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;
- (c) For an agency captive insurer, not less than \$300,000;
- (d) For a rental captive insurer, not less than \$400,000;
- (e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and
- (f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Assemblyman Ocegüera moved that the Assembly do not concur in the Senate Amendment No. 990 to Assembly Bill No. 161.

Remarks by Assemblyman Ocegüera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1111.

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; ~~authorizing the Commissioner to conduct certain investigations;~~ increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or

osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; revising various provisions governing industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.220-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.]~~

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner **of Insurance** when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to

determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines “tangible net worth” for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law provides that an employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) Section 30.8 of this bill clarifies that such a company shall be deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). Section 30.8 also clarifies the prohibition against such a company offering a self-funded industrial insurance program.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

Chapter 616B of NRS governs providers of industrial insurance. Under existing law, certain employers and associations of employers may qualify as self-insurers. (NRS 616B.300, 616B.353, 616B.386) Section 29.5 of this bill requires associations of self-insured public and private employees to provide to members certain information regarding claims at the request of the member. Sections 29.7, 29.8 and 30 of this bill provide specific fiscal requirements for qualification as a self-insured employer or an association of self-insured public or private employers.

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

Section 1. ~~{Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.~~

~~2. The Commissioner may:~~

~~(a) Use employees of the Division as investigators; or~~

~~(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall determine the qualifications required of such investigators, except that no investigator who provides services pursuant to this paragraph may be in the classified service of the State.~~

~~3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:~~

~~(a) Travel within or outside this State; and~~

~~(b) Cooperate with appropriate agencies or persons within or outside this State.~~

~~4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.~~

~~5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.~~

~~6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.290.~~

~~7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid.} (Deleted by amendment.)~~

Sec. 1.03. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~{The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

~~4.} The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.~~

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as *otherwise* provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~the~~ other than a parent corporation, ~~the~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~policy~~:

(1) *Policy* loans authorized under NRS 682A.170 ~~the~~; or

(2) *Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer ~~the~~ and which conform to the standards set forth in NRS 682A.230.*

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. **1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.**

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the

Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.

Sec. 1.5. 1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, and section 1.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~{Except as otherwise provided in this paragraph, a}~~ A financial statement of the administrator that has been ~~{audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been}~~ reviewed by an independent certified public accountant. ~~{if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.}~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~{On or before September 1 of each year, the}~~ **The** Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

- (a) Attained the age of 18 years;
- (b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;
- (c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;
- (d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and
- (e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ **authorized to transact business on behalf of** the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~[-]; and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~[affiliation with]~~ **authorization to transact business on behalf of** a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of

insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors *of the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not

prorated must not exceed ~~[\$150]~~ **\$300** for each member insurer for any ~~one~~ **1** calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to **a change in the rate for** a policy of industrial insurance ~~[-] which is based on:~~

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes

cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{, a person}~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2.}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3.}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. **Except as otherwise provided in subsection 2:**

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ **(b)** The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ **(c)** The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4-}~~ **(d)** Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~to a person~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization,

not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard

to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.—Except}~~

(d) The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~{or certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.}~~ , **contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.** Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996,

Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~[-]~~ **or the product offered.**

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify

any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~{a claim is closed under the policy,}~~ **the end of a calendar quarter**, submit a report to the Commissioner concerning ~~{the claim.}~~ **each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter.** The report must include, without limitation:

- (a) The name and address of the claimant and the insured under ~~{the}~~ **each** policy;
- (b) A statement setting forth the circumstances of ~~{the}~~ **that** case;
- (c) Information indicating whether any payment was made on ~~{the}~~ **a** claim and the amount of the payment, if any; and
- (d) The information specified in subsection 2 of NRS 679B.144 ~~{-}~~ **for each claim.**

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~{1-}~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~{2-}~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. **The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured**

home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS ~~683A.321, 683A.331,~~ 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

- (a) For a pure captive insurer, not less than ~~[\$100,000;]~~ **\$200,000;**
- (b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ **\$500,000;**
- (c) For an agency captive insurer, not less than ~~[\$300,000;]~~ **\$600,000;**
- (d) For a rental captive insurer, not less than ~~[\$400,000;]~~ **\$800,000;** and
- (e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ **\$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital **and surplus** required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital **or surplus** based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~[-]~~ **and surplus**, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital **and surplus** required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

- (a) The captive insurer:
 - (1) Is insolvent or has impaired its required capital or surplus;
 - (2) Has failed to meet a requirement of NRS 694C.250, ~~694C.260,~~ 694C.320 or 694C.330;

(3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;

(4) Has failed to comply with the provisions of its charter or bylaws;

(5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(a) Is first approved in writing by the Commissioner;

(b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer , ~~or~~ rental captive insurer **or sponsored captive insurer** shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once:~~

~~(a) Every 6 months for the first~~ **not less frequently than once every 3** years , ~~after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
~~→~~ conduct an examination of ~~the~~ **an organization for dental care** pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he

deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~{2}~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ **commenced must be filed in the manner and form established by the receiver and** set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ **that** amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ **must** be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~shall~~ **must** be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~or as directed by the court.~~

3. ~~Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.~~ **Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:**

(a) **Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and**

(b) **If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.**

4. **The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.**

5. **The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.**

6. **The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.**

7. *Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.*

8. *If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:*

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

9. *A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.*

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.

2. Chapter 679B of NRS.

3. NRS 683A.261.

4. NRS 683A.301.

5. NRS 683A.311.

6. **NRS 683A.331.**

7. NRS 683A.341.

~~{7.}~~ 8. NRS 683A.361.

~~{8.}~~ 9. NRS 683A.400.

~~{9.}~~ 10. NRS 683A.451.

~~{10.}~~ 11. NRS 683A.461.

~~{11.}~~ 12. NRS 683A.480.

~~{12.}~~ 13. NRS 683A.500.

~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, **and section 29.5 of this act.**

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~[]~~, **and section 29.5 of this act.**

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means **the value of** all ~~of~~ the assets, **minus the value of all the liabilities**, of an association of self-insured private employers or of a member of such an association except:

1. ~~[Accounts receivable, if they are factored or collateralized.~~
2. ~~An inventory, except one held for resale and not collateralized.~~
3. ~~A prepaid expense.~~
4. ~~An unqualified investment.~~
5. ~~An allocated bond fund.~~
6. ~~An investment in an affiliate.~~
7. ~~A restricted fund.~~
8. ~~A reserve.~~
9. ~~A security cost, such as a capitalized bond cost.~~
10. ~~A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
11. ~~A contingency or commitment, including any estimated cost.~~
12. ~~Any book adjustment caused by a change in an accounting policy or a restatement.~~

~~13.]~~ Goodwill or excess cost over the fair market value of assets.

~~[14.]~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify **and remain qualified** as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. ***For the purposes of this subsection, an employer has sufficient financial resources if:*** ~~[the employer has:]~~

(a) [A] At the time of initial qualification and until the employer has operated successfully as a qualified self-insured employer for 3 years, as determined by the Commissioner, the employer has a tangible net worth of

not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) ~~Net~~ After 3 years of successful operation as a qualified self-insured employer, as determined by the Commissioner, the employer has net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

(1) The number of members in the association;

(2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;

(3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;

(4) The number of years the association has been in existence; and

(5) Such other information as the Commissioner deems necessary.

↪ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall : ~~maintain~~ ~~(a) either:~~

(a) ~~[A]~~ At the time of initial qualification and until the association has operated successfully as a qualified association of self-insured private employers for 3 years, as determined by the Commissioner, have a combined tangible net worth of all members in the association of at least \$2,500,000 ~~[-]~~, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) ~~[Combined]~~ After 3 years of successful operation as a qualified association of self-insured private employers, as determined by the Commissioner, have combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least \$500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at least~~ **as determined by the Commissioner, either:**

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating

solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at least~~ **as determined by the Commissioner, either:**

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any

other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~{30}~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~[-]~~, **and section 29.5 of this act.**

Sec. 30.8. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~[-]~~ **If an employee leasing company complies with the provisions of subsection 3, the** employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans ~~[-]~~, **including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974.**

3. An employee leasing company shall not offer its employees any self-funded **industrial** insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. ~~[-]~~ ~~for pursuant to title 57 of NRS.~~

4. If an employee leasing company fails to:

- (a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required, pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

(a) For a pure captive insurer, not less than \$100,000;

(b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;

(c) For an agency captive insurer, not less than \$300,000;

(d) For a rental captive insurer, not less than \$400,000;

(e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and

(f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Assemblyman Ocegüera moved that the Assembly do not concur in the Senate Amendment No. 1111 to Assembly Bill No. 161.

Remarks by Assemblyman Ocegüera.

Motion carried.

Bill ordered transmitted to the Senate.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 385, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 771 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 17, which is attached to and hereby made a part of this report.

MARCUS CONKLIN

WILLIAM HORNE

GARN MABEY

Assembly Conference Committee

JOSEPH HECK

RANDOLPH TOWNSEND

Senate Conference Committee

Conference Amendment No. CA17.

AN ACT relating to the practice of medicine; authorizing the Board of Medical Examiners to issue restricted licenses; regulating the performance of laser surgery, intense pulsed light therapy and the injection of chemotherapeutic agents; increasing certain penalties; revising the scope of practice authorized for a physician practicing under a special volunteer medical license; making physicians subject to discipline for incurring or failing to report any disciplinary action in another jurisdiction or failing to obtain the informed consent of a patient to any procedure or therapy; providing peer reviewers and employees and volunteers working in a diversion program of the Board with limited civil immunity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 16 of this bill extend to physician assistants certain duties and immunities applicable to other providers of health care. (NRS 41.505, 629.031)

Section 3 of this bill authorizes the Board of Medical Examiners to issue restricted licenses to graduates of foreign medical schools who wish to engage in research, teaching or the practice of clinical medicine at a medical research facility or medical school in this State.

Sections 4 and 15.5 of this bill provide that laser surgery or intense pulsed light therapy on the globe of the eye may be performed only by a licensed physician or osteopathic physician who has completed a residency program in ophthalmology.

Section 5 of this bill prohibits a person, other than a physician, from injecting a patient with any chemotherapeutic agent classified as a prescription drug unless the person is a licensed or certified health care worker, acting within the scope of his license or certificate and under the supervision of a physician. Section 5 also defines the term “prescription drug” as a controlled substance or dangerous drug that may only be dispensed pursuant to a lawful prescription as well as any other substance or drug that can be substituted for such a controlled substance or drug.

~~Section 17 of this bill provides for the creation of a subcommittee by the Legislative Committee on Health Care. Section 17 requires the subcommittee to review the regulation of the use of lasers and intense pulsed light therapy in the performance of medical procedures and the use of injections of chemotherapeutic substances in the performance of procedures.~~

Sections 8 and 9 of this bill increase the penalties for physicians who fail to provide written notice to the Board of changes in their status and location. (NRS 630.254, 630.255)

Section 10 of this bill expands the scope of practice authorized for a physician practicing under a special volunteer medical license to include the treatment of persons who are uninsured or unable to afford health care in addition to the treatment of persons who are indigent.

Sections 13 and 14 of this bill expand the acts for which the Board may initiate discipline or deny licensure to include: (1) any disciplinary action taken against a physician by another jurisdiction; (2) failing to report the disciplinary action; and (3) failing to obtain the informed consent of a patient before performing any procedure or prescribing any therapy. (NRS 630.301, 630.306)

Section 15 of this bill extends the Board’s limited immunity from civil liability to the Board’s peer reviewers and persons working in diversion programs. (NRS 630.364)

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

Section 1. NRS 629.031 is hereby amended to read as follows:
629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***physician assistant***, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***1. Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to a person who:***

(a) Is a graduate of a foreign medical school;

(b) Teaches, researches or practices medicine outside of the United States;

(c) Is a recognized medical expert; and

(d) Intends to teach, research or practice clinical medicine at a medical research facility or medical school in this State.

2. A person who applies for a restricted license pursuant to this section is not required to take or pass a written examination concerning his qualifications to practice medicine, but the person must satisfy the requirements for a restricted license set forth in regulations adopted by the Board.

3. A person who holds a restricted license pursuant to this section may practice medicine in this State only in accordance with the terms and restrictions established by the Board.

Sec. 4. ***Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.***

Sec. 5. ***1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless:***

(a) The person is licensed or certified to perform medical services pursuant to this title;

(b) The administration of the injection is within the scope of the person's license or certificate; and

(c) The person administers the injection under the supervision of a physician. The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 6. NRS 630.025 is hereby amended to read as follows:

630.025 "Supervising physician" means an active physician licensed **and in good standing** in the State of Nevada who ~~employs and~~ supervises a physician assistant.

Sec. 7. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, **and section 3 of this act**, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain ~~such~~ **the** certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of ~~[such postgraduate education must be]~~ **which must have been completed** as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

Sec. 8. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board **in writing** of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board **in writing** of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed ~~[\$100;]~~ **\$250;** and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board **in writing** of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board **in writing** of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter keep the Board apprised **in writing** of the location of the medical records of his patients.

Sec. 9. NRS 630.255 is hereby amended to read as follows:

630.255 1. Any licensee who changes the location of his practice of medicine from this State to another state or country, has never engaged in the practice of medicine in this State after licensure or has ceased to engage in the practice of medicine in this State for 12 consecutive months may be placed on inactive status by order of the Board.

2. Each inactive registrant shall maintain a permanent mailing address with the Board to which all communications from the Board to the registrant must be sent. An inactive registrant who changes his permanent mailing address shall notify the Board **in writing** of his new permanent mailing address within 30 days after the change. If an inactive registrant fails to notify the Board **in writing** of a change in his permanent mailing address

within 30 days after the change, the Board shall impose upon the registrant a fine not to exceed ~~[\$100.]~~ **\$250.**

3. Before resuming the practice of medicine in this State, the inactive registrant must:

(a) Notify the Board of his intent to resume the practice of medicine in this State;

(b) File an affidavit with the Board describing his activities during the period of his inactive status;

(c) Complete the form for registration for active status;

(d) Pay the applicable fee for biennial registration; and

(e) Satisfy the Board of his competence to practice medicine.

4. If the Board determines that the conduct or competence of the registrant during the period of inactive status would have warranted denial of an application for a license to practice medicine in this State, the Board may refuse to place the registrant on active status.

Sec. 10. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who wishes to donate his expertise for the medical care and treatment of ~~[indigent]~~ persons in this State **who are indigent, uninsured or unable to afford health care** may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care to ~~[indigent]~~ persons in this State **who are indigent, uninsured or unable to afford health care;** and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to

practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or
(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 11. NRS 630.265 is hereby amended to read as follows:

630.265 1. Except as otherwise provided in NRS 630.161, the Board may issue to a qualified applicant a limited license to practice medicine as a resident physician in a graduate program approved by the Accreditation Council for Graduate Medical Education if he is:

(a) A graduate of an accredited medical school in the United States or Canada; or

(b) A graduate of a foreign medical school and has received the standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by it.

2. The medical school or other institution sponsoring the program shall provide the Board with written confirmation that the applicant has been appointed to a position in the program and is a citizen of the United States or lawfully entitled to remain and work in the United States. ~~{Such a}~~ **A limited** license remains valid only while the licensee is actively practicing medicine in the residency program and is legally entitled to work and remain in the United States.

3. The Board may issue ~~{such}~~ a limited license for not more than 1 year but may renew the license if the applicant for the limited license meets the requirements set forth by the Board by regulation.

4. The holder of a limited license may practice medicine only in connection with his duties as a resident physician or under such conditions as are approved by the director of the program. ~~{and the Board.}~~

5. The holder of a limited license granted pursuant to this section may be disciplined by the Board at any time for any of the grounds provided in NRS 630.161 or 630.301 to 630.3065, inclusive.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 630.301 is hereby amended to read as follows:

630.301 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Conviction of a felony relating to the practice of medicine or the ability to practice medicine. A plea of nolo contendere is a conviction for the purposes of this subsection.

2. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350 to 616D.440, inclusive.

3. ~~{The}~~ **Any disciplinary action, including, without limitation, the** revocation, suspension, modification or limitation of ~~{the}~~ **a** license to practice any type of medicine , **taken** by **another state, the Federal Government, a foreign country or** any other jurisdiction or the surrender of the license or discontinuing the practice of medicine while under investigation by any licensing authority, a medical facility, a branch of the Armed Services of the United States, an insurance company, an agency of the Federal Government or an employer.

4. Malpractice, which may be evidenced by claims settled against a practitioner, but only if ~~{such}~~ **the** malpractice is established by a preponderance of the evidence.

5. The engaging by a practitioner in any sexual activity with a patient who is currently being treated by the practitioner.

6. Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

7. The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.

8. The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when ~~{such}~~ **a** ~~{the}~~ failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.

9. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.

10. The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.

11. Conviction of:

(a) Murder, voluntary manslaughter or mayhem;

- (b) Any felony involving the use of a firearm or other deadly weapon;
- (c) Assault with intent to kill or to commit sexual assault or mayhem;
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (e) Abuse or neglect of a child or contributory delinquency;
- (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS; or
- (g) Any offense involving moral turpitude.

Sec. 14. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.
2. Engaging in any conduct:
 - (a) Which is intended to deceive;
 - (b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or
 - (c) Which is in violation of a regulation adopted by the State Board of Pharmacy.
3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.
4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.
5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.
6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine ~~are~~ **is** experimental.
7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.
8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.
9. Failing to comply with the requirements of NRS 630.254.
10. Habitual intoxication from alcohol or dependency on controlled substances.
11. Failure by a licensee or applicant to report ~~it~~ **in writing**, within 30 days, **any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation,**

the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

Sec. 15. NRS 630.364 is hereby amended to read as follows:

630.364 1. Any person or organization who furnishes information concerning an applicant for a license or a licensee in good faith and without malicious intent in accordance with the provisions of this chapter is immune from any civil action for furnishing that information.

2. The Board and any of its members and its staff, counsel, investigators, experts, **peer reviewers**, committees, panels, hearing officers, ~~and~~ consultants **and the employees or volunteers of a diversion program** are immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

3. ***As used in this section, "diversion program" means a program approved by the Board to correct a licensee's alcohol or drug dependence or any other impairment.***

Sec. 15.5. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed osteopathic physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the Bureau of Osteopathic Education of the American Osteopathic Association, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.

Sec. 16. NRS 41.505 is hereby amended to read as follows:

41.505 1. Any physician, **physician assistant** or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant, **physician assistant** or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision. An emergency medical attendant, **physician assistant**, registered nurse or licensed practical nurse who obeys an instruction given by a physician, **physician assistant**, registered nurse or licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or

omission, not amounting to gross negligence, in rendering that emergency care.

2. Except as otherwise provided in subsection 3, any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state, who renders emergency care or assistance in an emergency, gratuitously and in good faith, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance or as a result of any failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person. This section does not excuse a physician, **physician assistant** or nurse from liability for damages resulting from his acts or omissions which occur in a licensed medical facility relative to any person with whom there is a preexisting relationship as a patient.

3. Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who renders emergency obstetrical care or assistance to a pregnant woman during labor or the delivery of the child is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if:

(a) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct;

(b) The person has not previously provided prenatal or obstetrical care to the woman; and

(c) The damages are reasonably related to or primarily caused by a lack of prenatal care received by the woman.

↪ A licensed medical facility in which ~~such~~ **the** care or assistance is rendered is not liable for any civil damages as a result of any act or omission by the person in rendering that care or assistance if that person is not liable for any civil damages pursuant to this subsection and the actions of the medical facility relating to the rendering of that care or assistance do not amount to gross negligence or reckless, willful or wanton conduct.

4. Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who:

(a) Is retired or otherwise does not practice on a full-time basis; and

(b) Gratuitously and in good faith, renders medical care within the scope of his license to an indigent person,

↪ is not liable for any civil damages as a result of any act or omission by him, not amounting to gross negligence or reckless, willful or wanton conduct, in rendering that care.

5. Any person licensed to practice medicine under the provisions of chapter 630 or 633 of NRS or licensed to practice dentistry under the provisions of chapter 631 of NRS who renders care or assistance to a patient for a governmental entity or a nonprofit organization is not liable for any

civil damages as a result of any act or omission by him in rendering that care or assistance if the care or assistance is rendered gratuitously, in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct.

6. As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.

(b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

Sec. 17. ~~[1. The Legislative Committee on Health Care shall appoint a subcommittee to review the regulation of:~~

~~(a) The use of lasers and intense pulsed light therapy in the performance of medical procedures on patients; and~~

~~(b) The use of injections of cosmetic or chemotherapeutic substances in the performance of procedures on patients.~~

~~2. The subcommittee must consist of at least three members of the Legislative Committee on Health Care, all of whom are to be appointed by the Chairman of the Legislative Committee on Health Care.~~

~~3. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as Chairman of the subcommittee.~~

~~4. The subcommittee shall:~~

~~(a) Conduct:~~

~~(1) A review of the laws and regulations of this State relating to the issues described in subsection 1; and~~

~~(2) A study concerning the issues described in subsection 1;~~

~~(b) In carrying out the provisions of paragraph (a), consult with a representative of:~~

~~(1) The practice of ophthalmology in this State;~~

~~(2) The practice of dermatology in this State;~~

~~(3) The practice of cosmetic or plastic surgery in this State; and~~

~~(4) The medical spa industry in this State; and~~

~~(c) Not later than June 30, 2008, submit a report of the results of its review and study and any recommendations for legislation to the Legislative Committee on Health Care.~~

~~5. The subcommittee may contract with such experts, researchers and consultants as may be necessary for the subcommittee to carry out its duties.]~~

(Deleted by amendment.)

Assemblyman Conklin moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 385.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 123 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

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

Assembly in recess at 11:35 a.m.

ASSEMBLY IN SESSION

At 11:50 a.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 496, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 898 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

MARCUS CONKLIN
WILLIAM HORNE
FRANCIS ALLEN

Assembly Conference Committee

JOSEPH HECK
MAGGIE CARLTON
WARREN HARDY

Senate Conference Committee

Conference Amendment No. CA9.

AN ACT relating to workers' compensation; **revising provisions governing employee leasing companies;** revising various duties of employers, insurers and claimants under the workers' compensation system; revising certain procedures for accepting and denying workers' compensation claims; **prohibiting certain acts by vocational rehabilitation counselors;** **declaring void certain limiting provisions in an employer's policy of uninsured or underinsured vehicle coverage;** **providing for the creation of a code of conduct for hearing officers and appeals officers;** **revising provisions governing the provision of vocational rehabilitation services;** revising certain provisions relating to occupational diseases; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of workers' compensation if, during the course of employment, an employee is injured or killed by a workplace accident or occupational disease. (Chapters 616A-617 of NRS) Existing law authorizes an employer, after a workplace accident, to furnish the injured employee with the name of at least one physician or chiropractor qualified to examine the employee, but the employer may not require the employee to

select any particular physician or chiropractor for the examination. The examining physician or chiropractor must report to the employer regarding the character and extent of the injury, but the employer may not require or permit the disclosure of any other information concerning the employee's physical condition. (NRS 616C.010)

This bill makes various changes to the law governing workers' compensation. Section 1 of this bill requires employee leasing companies to maintain certain records relating to workers' compensation insurance. Section 1.2 of this bill provides for the recalculation of the average monthly wage of an injured employee. Section 1.25 of this bill authorizes an insurer to deny compensation to an injured employee based on his discharge from employment for misconduct. Section 1.3 of this bill prohibits a vocational rehabilitation counselor from engaging in certain acts, and section 19 of this bill provides for the imposition of an administrative fine for a violation of that prohibition. Section 1.35 of this bill regulates the payment of compensation to an injured employee in a lump sum. Section ~~1.1~~ 1.4 of this bill requires an employer ~~[whose insurer has contracted with certain managed care organizations or providers of health care services]~~ to furnish ~~[the]~~ an injured employee with the names of at least two physicians or chiropractors who are qualified to examine the employee . ~~[and who are available pursuant to the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment. If there are not two such physicians or chiropractors within that area, the employer is required to furnish the name of at least one physician who is qualified to examine the employee and available pursuant to the contract. Further, section 1 imposes similar requirements upon employers whose insurers have not contracted with such managed care organizations or providers of health care services, except that the employers are required to furnish only the names of physicians and chiropractors who are qualified to conduct the examinations without regard as to whether they are available pursuant to any particular contract. From among the names furnished by the employer, the employee must select one of those physicians or chiropractors to conduct the examination, but the employee is not required to select a particular physician or chiropractor from among the names furnished. Section 1 of this bill also clarifies that the employer shall not require or permit the disclosure of any other information concerning the employee's physical condition except as required by NRS 616C.177, which permits an insurer to inquire about and request medical records concerning a preexisting medical condition that is reasonably related to the industrial injury of the injured employee.]~~

~~Existing law requires an insurer to accept or deny claims involving industrial injuries and occupational diseases within a certain period. (NRS 616C.065, 617.356) Sections 1.5 and 3 of this bill require the insurer to mail its written determination regarding a claim to the claimant or the person acting on behalf of the claimant within the specified period and, if the insurer~~

~~denies the claim in whole or in part, to obtain a certificate of mailing at the time the written determination of the denial of the claim is delivered to the United States Postal Service for mailing. The certificate of mailing serves as a receipt that shows the date on which the insurer mailed the written determination of the denial of a claim.]~~ Sections 1.5, 3 and 5 of this bill revise provisions governing claims for compensation. Section 4 of this bill provides that certain provisions in an employer's policy of uninsured or underinsured vehicle coverage that limit certain rights of injured employees or insurers are void. Section 6 of this bill provides for the creation of a code of conduct for hearing officers and appeals officers who conduct hearings relating to workers' compensation, and for the establishment of standards for the initial training and continuing education of such persons. Sections 7-11 of this bill revise certain provisions governing hearings and appeals in workers' compensation cases. Sections 12-15 of this bill revise certain provisions governing the payment of compensation for injuries or death. Sections 16-18 of this bill revise certain provisions governing the provision of vocational rehabilitation services. Section 19 of this bill reduces the amount of certain benefit penalties that may be imposed for certain violations.

Existing law establishes certain general requirements which are used to determine whether a disease is compensable as an occupational disease. (NRS 617.440) However, existing law also provides that for some specific diseases, such as certain cancers, lung diseases, heart diseases and contagious diseases, there is a legal presumption that those diseases are compensable under the workers' compensation system when contracted under certain specific circumstances, such as when contracted by firefighters, police officers and emergency medical attendants. (NRS 617.453, 617.455, 617.457, 617.485, 617.487) Section ~~[4]~~ 21 of this bill provides that the general requirements of NRS 617.440 do not apply to the specific provisions of existing law which create such legal presumptions.

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

Section 1. NRS 616B.682 is hereby amended to read as follows:

616B.682 Each employee leasing company operating in this State shall ~~[maintain]~~:

1. Maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and written agreements with client companies.

2. Maintain at that office or similar site in this State records establishing that the employee leasing company maintains current policies of workers' compensation insurance providing coverage for each employee it leases to each client company.

3. Keep the records described in subsection 2 open for inspection and copying, during its regular business hours, by:

(a) Each employee it leases to each client company and any representative of each such employee; and

(b) The public.

Sec. 1.1. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to 1.35, inclusive, of this act.

Sec. 1.2. 1. Notwithstanding the provisions of subsection 3 of NRS 616C.315 and except as otherwise provided in this section, if an injured employee is receiving compensation based on a calculation of his average monthly wage as determined pursuant to the regulations adopted by the Administrator pursuant to NRS 616C.420, the injured employee or the employer may request a hearing before a hearing officer pursuant to the provisions of NRS 616C.315 to 616C.385, inclusive, asking for a recalculation of the average monthly wage of the injured employee.

2. The injured employee is entitled to have his average monthly wage recalculated if he proves by a preponderance of the evidence that the insurer calculated his average monthly wage improperly or incorrectly as a result of:

(a) The use of any improper or incorrect information or methodology;

(b) The failure to use any proper or correct information or methodology;

(c) Any error of law or fact; or

(d) Any other error, omission, neglect or wrongful act.

3. If the injured employee proves that the insurer calculated his average monthly wage improperly or incorrectly, resulting in an underpayment of compensation:

(a) The insurer shall:

(1) Increase the injured employee's future compensation based on the correct average monthly wage; and

(2) Pay the injured employee a lump sum in an amount equal to the underpayment of compensation for the period during which the insurer was using the incorrect average monthly wage; and

(b) The remedy provided in paragraph (a) is the sole remedy for the underpayment and the insurer is not subject to the imposition of any fine or benefit penalty therefor.

4. If the hearing officer determines that the calculation of the average monthly wage resulted in an overpayment of compensation, the insurer may require the injured employee to repay to the insurer an amount equal to the overpayment received by the injured employee during any one 30-day period.

5. The average monthly wage of an injured employee may not be challenged by the insurer, the employer or the injured employee after the date on which any portion of an award for permanent partial disability is paid or the claim closes, whichever occurs first.

6. The provisions of this section do not apply if the issue of the average monthly wage of the injured employee was previously adjudicated to a final decision in:

(a) A hearing before a hearing officer or appeals officer pursuant to the provisions of NRS 616C.315 to 616C.385, inclusive; or

(b) Any proceedings for judicial review.

Sec. 1.25. 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

Sec. 1.3. A vocational rehabilitation counselor shall not:

1. Offer payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services to an injured employee:

(a) Without providing written notice of the offer to the attorney for the injured employee; or

(b) If the injured employee is not represented by an attorney, without providing a written notice to the employee which satisfies the requirements of the notice required by paragraph (c) of subsection 3 of NRS 616C.595;

2. Offer any monetary payment to an injured employee in an amount that is less than the amount authorized by the insurer;

3. Make any false statement or implication that an injured employee must make a decision regarding vocational rehabilitation within a certain period of time;

4. Advise an insured or claimant not to seek legal counsel; or

5. Provide legal advice to a claimant.

Sec. 1.35. 1. Except as otherwise provided in subsection 2, an insurer shall, within 30 days after receiving a written request from an injured employee for payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services, respond in writing to the request and, if the insurer agrees to the request, include in the response:

(a) The amount of the lump sum that the insurer is offering to pay;

(b) A statement that the injured employee has 30 days after the date of the written response to accept or reject the lump-sum offer; and

(c) A statement indicating that, if the injured employee rejects the lump-sum offer, he must continue working with his vocational rehabilitation counselor in accordance with the provisions of this chapter and the regulations adopted pursuant thereto.

2. An insurer need only respond to a written request from an injured employee for payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services if the injured employee is eligible for vocational rehabilitation services.

~~[Section 1.]~~ **Sec. 1.4.** NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer ~~may~~ **shall**:

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of ~~one~~ :

(1) Two or more physicians or chiropractors ~~[-]~~ who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

(b) If the employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. **From among the names furnished by the employer pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but ~~may~~ the employer shall not require the employee to select ~~any~~ a particular physician or chiropractor ~~[-]~~ from among the names furnished by the employer.** Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning his physical condition ~~[-]~~ **except as required by NRS 616C.177.**

~~{3-}~~ 4. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

~~{4-}~~ 5. This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after medical attention which is required immediately has been completed.

Sec. 1.5. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) ~~{Commence payment of}~~ **Accept** a claim for compensation ~~{-}~~, **notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim;** or

(b) Deny the claim and notify the claimant **or the person acting on behalf of the claimant** and ~~the~~ Administrator that the claim has been denied.

~~{-}~~

2. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~{2-}~~ 3. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

4. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 4 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

6. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

7. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

8. As used in this section, “certificate of mailing” means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 616C.070 is hereby amended to read as follows:

616C.070 1. A person is conclusively presumed to be totally dependent upon an injured or deceased employee if ~~the~~ :

(a) The person is a natural, posthumous or adopted child, whether legitimate or illegitimate, under the age of 18 years ~~or over that age if~~ ; **or**

(b) The person is a natural, posthumous or adopted child, there is no surviving parent and the person is:

(1) Over the age of 18 years and physically or mentally incapacitated from wage earning, ~~and there is no surviving parent.~~ ; **or**

(2) Over the age of 18 years but under the age of 22 years and enrolled as a full-time student in an accredited vocational or educational institution.

2. Stepparents may be regarded in chapters 616A to 616D, inclusive, or chapter 617 of NRS as parents if the fact of dependency is shown, and a stepchild or stepchildren may be regarded in chapters 616A to 616D, inclusive, or chapter 617 of NRS as a natural child or children if the existence and fact of dependency are shown.

~~2.~~ **3.** Except as otherwise provided in subsection ~~13~~ **14** of NRS 616C.505, questions as to who constitute dependents and the extent of their dependency must be determined as of the date of the accident or injury to the employee, and their right to any benefit becomes fixed at that time, irrespective of any subsequent change in conditions, and the benefits are directly recoverable by and payable to the dependent or dependents entitled thereto or to their legal guardians or trustees.

~~3.~~ **4.** The presumptions of this section do not apply in favor of aliens who are nonresidents of the United States at the time of the accident, injury to, or death of the employee.

Sec. 4. NRS 616C.215 is hereby amended to read as follows:

616C.215 1. If an injured employee or, in the event of his death, his dependents, bring an action in tort against his employer to recover payment for an injury which is compensable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and, notwithstanding the provisions of NRS 616A.020, receive payment from the employer for that injury:

(a) The amount of compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount paid by the employer.

(b) The insurer, or in the case of claims involving the uninsured employer's claim account or a subsequent injury account the Administrator, has a lien upon the total amount paid by the employer if the injured employee or his dependents receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

➡ This subsection is applicable whether the money paid to the employee or his dependents by the employer is classified as a gift, a settlement or otherwise. The provisions of this subsection do not grant to an injured employee any right of action in tort to recover damages from his employer for his injury.

2. When an employee receives an injury for which compensation is payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and which was caused under circumstances creating a legal liability in some person, other than the employer or a person in the same employ, to pay damages in respect thereof:

(a) The injured employee, or in case of death his dependents, may take proceedings against that person to recover damages, but the amount of the compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount of the damages recovered, notwithstanding any act or omission of the employer or a person in the same employ which was a direct or proximate cause of the employee's injury.

(b) If the injured employee, or in case of death his dependents, receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, the insurer, or in case of claims involving the uninsured employers' claim account or a subsequent injury account the Administrator, has a right of action against the person so liable to pay damages and is subrogated to the rights of the injured employee or of his dependents to recover therefor.

3. When an injured employee incurs an injury for which compensation is payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and which was caused under circumstances entitling him, or in the case of death his dependents, to receive proceeds under his employer's policy of uninsured or underinsured vehicle coverage:

(a) The injured employee, or in the case of death his dependents, may take proceedings to recover those proceeds, but the amount of compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount of proceeds received.

(b) If an injured employee, or in the case of death his dependents, receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, the insurer, or in the case of claims involving the uninsured employers' claim account or a subsequent injury account the Administrator, is subrogated to the rights of the injured employee or his dependents to recover proceeds under the employer's policy of uninsured or underinsured vehicle coverage. The insurer and the Administrator are not subrogated to the rights of an injured employee or his dependents under a policy of uninsured or underinsured vehicle coverage purchased by the employee.

(c) Any provision in the employer's policy of uninsured or underinsured vehicle coverage which has the effect of:

(1) Limiting the rights of the injured employee or his dependents to recover proceeds under the policy because of the receipt of any compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(2) Limiting the rights of subrogation of the insurer or Administrator provided by paragraph (b); or

(3) Excluding coverage which inures to the direct or indirect benefit of the insurer or Administrator,
↪ is void.

4. In any action or proceedings taken by the insurer or the Administrator pursuant to this section, evidence of the amount of compensation, accident benefits and other expenditures which the insurer, the uninsured employers' claim account or a subsequent injury account have paid or become obligated to pay by reason of the injury or death of the employee is admissible. If in such action or proceedings the insurer or the Administrator recovers more than those amounts, the excess must be paid to the injured employee or his dependents.

5. In any case where the insurer or the Administrator is subrogated to the rights of the injured employee or of his dependents as provided in subsection 2 or 3, the insurer or the Administrator has a lien upon the total proceeds of any recovery from some person other than the employer, whether the proceeds of such recovery are by way of judgment, settlement or otherwise. The injured employee, or in the case of his death his dependents, are not entitled to double recovery for the same injury, notwithstanding any act or omission of the employer or a person in the same employ which was a direct or proximate cause of the employee's injury.

6. The lien provided for pursuant to subsection 1 or 5 includes the total compensation expenditure incurred by the insurer, the uninsured employers' claim account or a subsequent injury account for the injured employee and his dependents.

7. An injured employee, or in the case of death his dependents, or the attorney or representative of the injured employee or his dependents, shall notify the insurer, or in the case of claims involving the uninsured

employers' claim account or a subsequent injury account the Administrator, in writing before initiating a proceeding or action pursuant to this section.

8. Within 15 days after the date of recovery by way of actual receipt of the proceeds of the judgment, settlement or otherwise:

(a) The injured employee or his dependents, or the attorney or representative of the injured employee or his dependents; and

(b) The third-party insurer,

➔ shall notify the insurer, or in the case of claims involving the uninsured employers' claim account or a subsequent injury account the Administrator, of the recovery and pay to the insurer or the Administrator, respectively, the amount due pursuant to this section together with an itemized statement showing the distribution of the total recovery. The attorney or representative of the injured employee or his dependents and the third-party insurer are jointly and severally liable for any amount to which an insurer is entitled pursuant to this section if the attorney, representative or third-party insurer has knowledge of the lien provided for in this section.

9. An insurer shall not sell its lien to a third-party insurer unless the injured employee or his dependents, or the attorney or representative of the injured employee or his dependents, refuses to provide to the insurer information concerning the action against the third party.

10. In any trial of an action by the injured employee, or in the case of his death by his dependents, against a person other than the employer or a person in the same employ, the jury must receive proof of the amount of all payments made or to be made by the insurer or the Administrator. The court shall instruct the jury substantially as follows:

Payment of workmen's compensation benefits by the insurer, or in the case of claims involving the uninsured employers' claim account or a subsequent injury account the Administrator, is based upon the fact that a compensable industrial accident occurred, and does not depend upon blame or fault. If the plaintiff does not obtain a judgment in his favor in this case, he is not required to repay his employer, the insurer or the Administrator any amount paid to him or paid on his behalf by his employer, the insurer or the Administrator.

If you decide that the plaintiff is entitled to judgment against the defendant, you shall find his damages in accordance with the court's instructions on damages and return your verdict in the plaintiff's favor in the amount so found without deducting the amount of any compensation benefits paid to or for the plaintiff. The law provides a means by which any compensation benefits will be repaid from your award.

11. To calculate an employer's premium, the employer's account with the private carrier must be credited with an amount equal to that recovered by the private carrier from a third party pursuant to this section, less the private carrier's share of the expenses of litigation incurred in obtaining the recovery, except that the total credit must not exceed the amount of

compensation actually paid or reserved by the private carrier on the injured employee's claim.

12. As used in this section, "third-party insurer" means an insurer that issued to a third party who is liable for damages pursuant to subsection 2, a policy of liability insurance the proceeds of which are recoverable pursuant to this section. The term includes an insurer that issued to an employer a policy of uninsured or underinsured vehicle coverage.

Sec. 5. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant ~~and~~ **and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney.** The notice must include **, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement** that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive ~~and~~ **, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315.** A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than \$300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice **that includes a statement which prominently displays** that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C. 305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than \$300 in medical benefits within 6 months after the claim is opened a written notice that explains the

circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

Sec. 6. NRS 616C.295 is hereby amended to read as follows:

616C.295 1. **The Chief of the Hearings Division shall adopt regulations establishing:**

(a) A code of conduct for hearing officers who conduct hearings in contested cases for compensation under chapters 616A to 617, inclusive, of NRS; and

(b) A code of conduct for appeals officers who conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS.

2. The codes of conduct established pursuant to subsection 1 must be designed to ensure fairness and impartiality, and to avoid the appearance of impropriety.

3. The Chief of the Hearings Division shall adopt regulations establishing:

(a) Standards for the initial training and continuing education of hearing officers who conduct hearings in contested cases for compensation under chapters 616A to 617, inclusive, of NRS; and

(b) Standards for the initial training and continuing education of appeals officers who conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS.

4. The standards established pursuant to subsection 3 must, without limitation, include training and continuing education in:

(a) The provisions of chapters 616A to 617, inclusive, of NRS;

(b) Dispute resolution; and

(c) Mediation.

5. The Chief of the Hearings Division shall:

(a) Prescribe by regulation the qualifications [and training] required before a person may, pursuant to chapters 616A to [616D, inclusive, or chapter] 617, inclusive, of NRS, serve as a hearing officer. [Training for a hearing officer must include techniques of mediation.]

(b) Provide for the expediting of the hearing of cases that involve the termination or denial of compensation.

~~2.~~ **6. From the cases heard each year by hearing officers and appeals officers regarding claims for benefits by injured employees, the Chief of the Hearings Division shall prepare an annual report which itemizes, on the basis of each insurer and third-party administrator, the number of cases affirmed, reversed, remanded and resolved by other disposition involving that insurer**

or third-party administrator, including a breakdown of that information by the type of benefits denied by the insurer or third-party administrator.

~~§ 7.~~ **7.** As used in this section, “Chief of the Hearings Division” means the Chief of the Hearings Division of the Department of Administration.

Sec. 7. NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer’s authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787 and 616C.305, **and section 1.2 of this act**, a person who is aggrieved by:

(a) A written determination of an insurer; or

(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,

↪ may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and **, except as otherwise provided in subsections 4 and 5,** must be filed within 70 days after the date on which the notice of the insurer’s determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. **The period specified in subsection 3 within which a request for a hearing must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.**

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

~~{5}~~ **6.** The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

~~{6}~~ **7.** The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

Sec. 8. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may **order an independent medical examination, which must not involve treatment, and** refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee ~~{1}~~ **, whether or not the physician or chiropractor is on the insurer's panel of providers of health care.** If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees

pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

7. The hearing officer shall render his decision within 15 days after:

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

8. The hearing officer shall render his decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

9. The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

10. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 9. NRS 616C.340 is hereby amended to read as follows:

616C.340 1. The Governor shall appoint one or more appeals officers to conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS. Each appeals officer shall hold office for 2 years after the date of his appointment and until his successor is appointed and has qualified. Each appeals officer is entitled to receive an annual salary in an amount provided by law and is in the unclassified service of the State.

2. Each appeals officer must be an attorney who has been licensed to practice law before all the courts of this State for at least 2 years. Except as otherwise provided in NRS 7.065, an appeals officer shall not engage in the private practice of law.

3. If an appeals officer determines that he has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him, he shall disqualify himself from hearing the case.

4. The Governor may appoint one or more special appeals officers to conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS. The Governor shall not appoint an attorney who represents persons in actions related to claims for compensation to serve as a special appeals officer.

5. A special appeals officer appointed pursuant to subsection 4 is vested with the same powers as a regular appeals officer. A special appeals officer may hear any case in which a regular appeals officer has a conflict, or any case assigned to him by the senior appeals officer to assist with a backlog of

cases. A special appeals officer is entitled to be paid at an hourly rate, as determined by the Department of Administration.

6. The decision of an appeals officer is the final and binding administrative ~~determination of~~ **decision on** a claim for compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the whole record consists of all evidence taken at the hearing before the appeals officer and any findings of fact and conclusions of law based thereon.

Sec. 10. NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by **except as otherwise provided in subsections 8 and 9,** filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. A hearing must not be scheduled until the following information is provided to the appeals officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:

(a) A final determination was rendered pursuant to that procedure; or

(b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,

↪ any party to the dispute may **except as otherwise provided in subsections 8 and 9,** file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or his dependent, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

4. Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

5. Except as otherwise provided in subsections 2 and 6, within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220,

616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection ~~6~~ 7 of NRS 616C.315, the appeals officer shall:

(a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.

6. A request to schedule the hearing for a date and time which is:

(a) Within 60 days after the receipt of the notice of appeal or contested claim; or

(b) More than 90 days after the receipt of the notice or claim,
 ➔ may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

7. An appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

8. **The period specified in subsection 1 or 3 within which a notice of appeal must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.**

9. Failure to file a notice of appeal within the period specified in subsection 1 or 3 may be excused if the party aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

Sec. 11. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) ~~Refer~~ **Order an independent medical examination and refer** the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee ~~to~~ **, whether or not the physician or chiropractor is on the insurer's panel of providers of health care.** If the medical question concerns the rating of a

permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 12. NRS 616C.410 is hereby amended to read as follows:

616C.410 Except as otherwise provided by NRS 616C.380, 616C.495, 616C.505, 616C.580 and 616C.595, and section 1.2 of this act, the insurer shall not make or allow any lump-sum settlements.

Sec. 13. NRS 616C.453 is hereby amended to read as follows:

616C.453 1. If a claimant or a dependent of a claimant is entitled to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability and the claimant or dependent is not entitled to an annual increase in that compensation pursuant to NRS 616C.473, the

claimant or dependent is entitled to an annual payment for that permanent total disability in an amount determined by the Administrator pursuant to subsection 3, but such annual payments may not exceed \$1,200 per claimant or dependent. ~~[The]~~ **Except as otherwise provided in subsection 5, the** total payments made pursuant to this section may not exceed \$500,000 per year.

2. Each year, the Administrator shall withdraw from the Uninsured Employers' Claim Account established pursuant to NRS 616A.430 an amount of the income realized from the investment of the assets in the Account that is necessary to fund the payments calculated pursuant to subsection 3.

3. The Administrator shall adopt regulations establishing a method for the equitable distribution of the money withdrawn from the Account pursuant to subsection 2. The regulations must provide for payments that result in the largest proportional share of the money being paid to claimants and dependents who receive the lowest amount of compensation pursuant to chapters 616A to 617, inclusive, of NRS for the permanent total disability. The Administrator may adopt any other regulations that are necessary to carry out the provisions of this section.

4. ~~[The]~~ **Except as otherwise provided in subsection 5, the** Administrator shall make the payment required by this section to each claimant and dependent of the claimant who is entitled to the payment not later than October 1 of each year. Any payment received by the claimant or dependent of the claimant pursuant to this section is in addition to any compensation to which the claimant or dependent of the claimant is otherwise entitled by law.

5. The Administrator may make a payment from the Account to a claimant or a dependent of a claimant that would have been payable in a prior year pursuant to subsection 3 if the Administrator determines that the claimant or dependent was entitled to the payment pursuant to subsection 1.

Sec. 14. NRS 616C.495 is hereby amended to read as follows:

616C.495 1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:

(a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 25 percent may elect to receive his compensation in a lump sum.

(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant's undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 25 percent may elect to receive his compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 25 percent.

(d) Any claimant injured on or after July 1, 1995, may elect to receive his compensation in a lump sum in accordance with regulations adopted by the Administrator and approved by the Governor. The Administrator shall adopt regulations for determining the eligibility of such a claimant to receive all or any portion of his compensation in a lump sum. Such regulations may include the manner in which an award for a permanent partial disability may be paid to such a claimant in installments. Notwithstanding the provisions of NRS 233B.070, any regulation adopted pursuant to this paragraph does not become effective unless it is first approved by the Governor.

2. If the claimant elects to receive his payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

(a) His right to:

(1) Reopen his claim in accordance with the provisions of NRS 616C.390; or

(2) Have his claim considered by his insurer pursuant to NRS 616C.392;

(b) Any counseling, training or other rehabilitative services provided by the insurer; and

(c) His right to receive a benefit penalty in accordance with NRS 616D.120.

➔ The claimant **when he demands his payment in a lump sum,** must be ~~[advised in writing of the provisions of this subsection when he demands his payment in a lump sum,]~~ **provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award,** and **that he** has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

3. Any lump-sum payment which has been paid on a claim incurred on or after July 1, 1973, must be supplemented if necessary to conform to the provisions of this section.

4. Except as otherwise provided in this subsection, the total lump-sum payment for disablement must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his permanent

partial disability before electing to receive his payment for that disability in a lump sum, the lump-sum payment must be calculated for the remaining payment of compensation.

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 7 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary.

6. If a claimant would receive more money by electing to receive compensation in a lump sum than he would if he receives installment payments, he may elect to receive the lump-sum payment.

Sec. 15. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit, and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed \$5,000. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. ~~For~~ Except as otherwise provided in subsection 3, to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, his proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 12, if the child has a guardian, the compensation he is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee , in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection ~~{41,}~~ 12, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

~~{4,}~~ 5. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.

~~{5,}~~ 6. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of 66 2/3 percent of the average monthly wage for his support.

~~{6,}~~ 7. Except as otherwise provided in subsection ~~{7,}~~ 8, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of 66 2/3 percent of the average monthly wage.

~~{7,}~~ 8. The aggregate compensation payable pursuant to subsection ~~{6,}~~ 7 must not exceed 66 2/3 percent of the average monthly wage.

~~{8,}~~ 9. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

~~{9,}~~ 10. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

~~{10.}~~ **11.** In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed \$5,000.

~~{11.}~~ **12.** If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection ~~{12.}~~ **13** is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, “incompetent” has the meaning ascribed to it in NRS 159.019.

~~{12.}~~ **13.** Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

~~{13.}~~ **14.** As used in this section, “surviving spouse” means a surviving husband or wife who was married to the employee at the time of the employee’s death.

Sec. 16. NRS 616C.560 is hereby amended to read as follows:

616C.560 1. A program for vocational rehabilitation developed pursuant to subsection 3 of NRS 616C.555 may be extended:

(a) Without condition or limitation, by the insurer at his sole discretion; or

(b) In accordance with this section if:

(1) The injured employee makes a written request to extend the program ~~{within}~~ **not later than** 30 days after ~~he receives written notification that he is eligible~~ **the program** for vocational rehabilitation services ~~has been~~ **completed;** and

(2) There are exceptional circumstances which make it unlikely that the injured employee will obtain suitable gainful employment as a result of

vocational rehabilitation which is limited to the period for which he is eligible.

↪ An insurer's determination to grant or deny an extension pursuant to paragraph (a) may not be appealed.

2. If an injured employee has incurred a permanent physical impairment of less than 11 percent:

(a) The total length of the program, including any extension, must not exceed 2 years.

(b) "Exceptional circumstances" shall be deemed to exist for the purposes of paragraph (b) of subsection 1, if:

(1) The injured employee lacks work experience, training, education or other transferable skills for an occupation which he is physically capable of performing; or

(2) Severe physical restrictions as a result of the industrial injury have been imposed by a physician which significantly limit the employee's occupational opportunities.

3. If an injured employee has incurred a permanent physical impairment of 11 percent or more:

(a) The total length of the program, including any extension, must not exceed 2 1/2 years.

(b) "Exceptional circumstances" shall be deemed to exist for the purposes of paragraph (b) of subsection 1, if the injured employee has suffered:

(1) The total and permanent loss of sight of both eyes;

(2) The loss by separation of a leg at or above the knee;

(3) The loss by separation of a hand at or above the wrist;

(4) An injury to the head or spine which results in permanent and complete paralysis of both legs, both arms or a leg and an arm;

(5) An injury to the head which results in a severe cognitive functional impairment which may be established by a nationally recognized form of objective psychological testing;

(6) The loss by separation of an arm at or above the elbow and the loss by separation of a leg at or above the knee;

(7) An injury consisting of second or third degree burns on 50 percent or more of the body, both hands or the face;

(8) A total bilateral loss of hearing;

(9) The total loss or significant and permanent impairment of speech; or

(10) A permanent physical impairment of 50 percent or more determined pursuant to NRS 616C.490, if the severity of the impairment limits the injured employee's gainful employment to vocations that are primarily intellectual and require a longer program of education.

4. The insurer shall deliver a copy of its decision granting or denying an extension to the injured employee and the employer. Except as otherwise provided in this section, the decision shall be deemed to be a final determination of the insurer for the purposes of NRS 616C.315.

Sec. 17. NRS 616C.580 is hereby amended to read as follows:

616C.580 1. Except as otherwise provided in this section, vocational rehabilitation services must not be provided outside of this State.

2. An injured employee who:

(a) Resides outside of this State, within 50 miles from any border of this State, on the date of injury; or

(b) Was injured while temporarily employed in this State by an employer subject to the provisions of chapters 616A to 617, inclusive, of NRS who can demonstrate that, on the date of injury, his permanent residence was outside of this State,

↪ may receive vocational rehabilitation services at a location within 50 miles from his residence if such services are available at such a location.

3. An injured employee who:

(a) Is eligible for vocational rehabilitation services pursuant to NRS 616C.590; and

(b) Resides outside of this State but does not qualify to receive vocational rehabilitation services outside of this State pursuant to subsection 2,

↪ may execute a written agreement with the insurer which provides for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services pursuant to NRS 616C.595. The amount of the lump sum must not exceed \$20,000.

4. An injured employee who resides outside of this State but does not qualify to receive vocational rehabilitation services outside of this State pursuant to subsection 2 may receive the vocational rehabilitation services to which he is entitled pursuant to NRS 616C.545 to 616C.575, inclusive, and 616C.590 if he relocates to:

(a) This State; or

(b) A location within 50 miles from any border of this State,

↪ at his own expense, if such services are available at such a location.

5. An injured employee who resides in this State may receive vocational rehabilitation services outside of this State at a location within 50 miles from his residence if such services are available at such a location. An insurer may not unreasonably deny a request made by an injured employee pursuant to this subsection to receive vocational rehabilitation services outside of this State.

6. An injured employee may receive vocational rehabilitation services in any state that borders this State if the injured employee demonstrates that the services are available in a more cost effective manner than are available in this State. Any vocational rehabilitation services provided pursuant to this subsection must be monitored by a vocational rehabilitation counselor in this State.

Sec. 18. NRS 616C.595 is hereby amended to read as follows:

616C.595 1. If an injured employee is eligible for vocational rehabilitation services pursuant to NRS 616C.590, the insurer and the injured employee may, at any time during the employee's eligibility for such services, execute a written agreement providing for the payment of

compensation in a lump sum in lieu of the provision of vocational rehabilitation services. An insurer's refusal to execute such an agreement may not be appealed.

2. If the insurer and the injured employee execute an agreement pursuant to subsection 1, the acceptance of the payment of compensation in a lump sum by the injured employee extinguishes his right to receive vocational rehabilitation services under his claim. Except as otherwise required by federal law, an injured employee shall not receive vocational rehabilitation services from any state agency after he accepts payment of compensation in a lump sum pursuant to this section.

3. Before executing an agreement pursuant to subsection 1, an insurer shall:

(a) Order an assessment of and counseling concerning the vocational skills of the injured employee, unless the provisions of subsection 3 of NRS 616C.580 are applicable;

(b) Consult with the employer of the injured employee; and

(c) Provide a written notice to the injured employee that contains the following statements:

(1) That the injured employee is urged to seek assistance and advice from the Nevada Attorney for Injured Workers or to consult with a private attorney before signing the agreement.

(2) That the injured employee may rescind the agreement within 20 days after he signs it.

(3) That the 20-day period pursuant to subparagraph (2) may not be waived.

(4) That acceptance by the injured employee of payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services extinguishes his right to receive such services.

4. **Except as otherwise provided in NRS 616C.580, any payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services must not be less than 40 percent of the maximum amount of vocational rehabilitation maintenance due to the injured employee pursuant to NRS 616C.555.**

5. No payment of compensation in a lump sum may be made pursuant to this section until the 20-day period provided for the rescission of the agreement has expired.

Sec. 19. NRS 616D.120 is hereby amended to read as follows:

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165; or

(h) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

➤ the Administrator shall impose an administrative fine of \$1,500 for each initial violation, or a fine of \$15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

➡ The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).

➡ The fine imposed must not be greater than \$375 for an initial violation, or more than \$1,500 for any second or subsequent violation.

(c) Order a plan of corrective action to be submitted to the Administrator within 30 days after the date of the order.

3. If the Administrator determines that a violation of any of the provisions of paragraphs (a) to (e), inclusive, or (h) of subsection 1 has occurred, the Administrator shall order the insurer, organization for managed care, health care provider, third-party administrator or employer to pay to the claimant a benefit penalty :

(a) Except as otherwise provided in paragraph (b), in an amount that is not less than \$5,000 and not greater than \$37,500 ~~for~~ ; or

(b) Of \$3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than \$500 or which is not more than 14 days late.

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) or (h) of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties **, other than a benefit penalty described in paragraph (b) of subsection 3,** previously imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer pursuant to this section. If this is the third violation within 5 years for which a benefit penalty **, other than a benefit penalty described in paragraph (b) of subsection 3,** has been imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer, the Administrator shall also consider the degree of economic harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) or (h) of subsection 1. Except as otherwise provided in this section, the benefit

penalty is for the benefit of the claimant and must be paid directly to him within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and he dies before the benefit penalty is paid to him, the benefit penalty must be paid to his estate. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of his determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to this subsection.

~~{4.}~~ **5.** In addition to any fine or benefit penalty imposed pursuant to this section, the Administrator may assess against an insurer who violates any regulation concerning the reporting of claims expenditures or premiums received that are used to calculate an assessment, an administrative penalty of up to twice the amount of any underpaid assessment.

~~{5.}~~ **6.** If:

(a) The Administrator determines that a person has violated any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation,
 ↳ the Administrator shall impose an administrative fine of not more than \$15,000.

~~{6.}~~ **7.** Two or more fines of \$1,000 or more imposed in 1 year for acts enumerated in subsection 1 must be considered by the Commissioner as evidence for the withdrawal of:

(a) A certificate to act as a self-insured employer.

(b) A certificate to act as an association of self-insured public or private employers.

(c) A certificate of registration as a third-party administrator.

~~{7.}~~ **8.** The Commissioner may, without complying with the provisions of NRS 616B.327 or 616B.431, withdraw the certification of a self-insured employer, association of self-insured public or private employers or third-party administrator if, after a hearing, it is shown that the self-insured employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.

9. If the Administrator determines that a vocational rehabilitation counselor has violated the provisions of section 1.3 of this act, the Administrator may impose an administrative fine on the vocational rehabilitation counselor of not more than \$250 for a first violation, \$500 for a second violation and \$1,000 for a third or subsequent violation.

~~{Sec. 3.}~~ **Sec. 20.** NRS 617.356 is hereby amended to read as follows:

617.356 **1.** An insurer shall accept or deny ~~{responsibility}~~ **a claim** for compensation under this chapter **and notify the claimant or the person**

acting on behalf of the claimant pursuant to NRS 617.344 that the claim has been accepted or denied within 30 working days after ~~claims~~ *the forms for filing the claim* for compensation are received pursuant to both NRS 617.344 and 617.352.

2. *The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:*

(a) *Mailing its written determination to the claimant or the person acting on behalf of the claimant; and*

(b) *If the claim has been denied, in whole or in part, obtaining a certificate of mailing.*

3. *The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 2 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.*

4. *Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.*

5. *For the purposes of this section, the insurer shall mail the written determination to:*

(a) *The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or*

(b) *Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.*

6. *As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.*

~~Sec. 4.]~~ **Sec. 21.** NRS 617.440 is hereby amended to read as follows:

617.440 1. An occupational disease defined in this chapter shall be deemed to arise out of and in the course of the employment if:

(a) There is a direct causal connection between the conditions under which the work is performed and the occupational disease;

(b) It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

(c) It can be fairly traced to the employment as the proximate cause; and

(d) It does not come from a hazard to which workmen would have been equally exposed outside of the employment.

2. The disease must be incidental to the character of the business and not independent of the relation of the employer and employee.

3. The disease need not have been foreseen or expected, but after its contraction must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence.

4. In cases of disability resulting from radium poisoning or exposure to radioactive properties or substances, or to roentgen rays (X rays) or ionizing radiation, the poisoning or illness resulting in disability must have been contracted in the State of Nevada.

5. *The requirements set forth in this section do not apply to claims filed pursuant to NRS 617.453, 617.455, 617.457, 617.485 or 617.487.*

Sec. 22. With respect to the regulations required to be adopted pursuant to NRS 616C.295, as amended by section 6 of this act, the Chief of the Hearings Division of the Department of Administration shall:

1. Hold the first workshop concerning the regulations on or before December 31, 2007; and

2. Adopt the regulations on or before June 30, 2008.

~~{Sec. 5.}~~ **Sec. 23.** This act becomes effective on July 1, 2007.

Assemblyman Conklin moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 496.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 510.

The following Senate amendment was read:

Amendment No. 1087.

SUMMARY—Makes various changes ~~{concerning credits earned by offenders and the incarceration and supervision of}~~ **pertaining to offenders.** (BDR 16-1377)

AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; **revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 2 revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential

confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, section 2 provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) Section 3 of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, section 5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. Section 5 also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) Section 6 of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) Section 6.2 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) Section 6.4 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 7 revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) Section 7.5 of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. Section 8 of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has,

within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) Section 8.55 provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) Section 8.6 of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. Section 8.8 of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of sections 5 and 8.7 to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the

term of imprisonment for the underlying crime. (NRS 193.161-193.1685) Sections 10-19 of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, sections 10-19 require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~{Established}~~ ***Demonstrated a willingness and ability to establish*** a position of employment in the community;

(b) ~~{Enrolled}~~ ***Demonstrated a willingness and ability to enroll*** in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➡ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by

the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

~~{(a)}~~ ~~Is not eligible for parole or release from prison within a reasonable period;~~

~~{(b)}~~ Has recently committed a serious infraction of the rules of an institution or facility of the Department;

~~{(c)}~~ **(b)** Has not performed the duties assigned to him in a faithful and orderly manner;

~~{(d)}~~ **(c)** Has ~~never~~ been convicted of:

(1) Any crime **that is punishable as a felony** involving the use or threatened use of force or violence against the victim ~~{-or-}~~ **within the immediately preceding 3 years;**

(2) A sexual offense ~~{-or-}~~

~~{(e)}~~ **that is punishable as a felony; or**

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; **or**

~~{(f)}~~ **(e)** Has escaped or attempted to escape from any jail or correctional institution for adults, ~~{-or-}~~

~~{(g)}~~ ~~Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.~~

↪ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if {;

~~(a) The~~ **the** offender has:

~~{{(1)}} (a) {Established}~~ **Demonstrated a willingness and ability to establish** a position of employment in the community;

~~{{(2)}} (b) {Enrolled}~~ **Demonstrated a willingness and ability to enroll** in a program for education or rehabilitation; or

~~{{(3)}} (c)~~ **Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . {;**

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(c) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

↪ ~~If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and

conditions of his residential confinement, or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

- (a) For the period he is actually incarcerated under sentence;
- (b) For the period he is in residential confinement; and
- (c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↪ a deduction of 10 days from his sentence for each month he serves.

2. In addition to the credit provided for in subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

- (a) For earning a general educational development certificate, 30 days.
- (b) For earning a high school diploma, 60 days.
- (c) For earning an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, ***program for reentry of offenders and parolees into the community***, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

- (a) For the period he is actually incarcerated pursuant to his sentence;
- (b) For the period he is in residential confinement; and

(c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

→ a deduction of ~~{10}~~ 20 days from his sentence for each month he serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, ~~{30}~~ 60 days.

(b) For earning a high school diploma, ~~{60}~~ 90 days.

(c) For earning his first associate degree, ~~{90}~~ 120 days.

3. The Director may, in his discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, **program for reentry of offenders and parolees into the community**, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~{20}~~ 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~{Credits}~~ **Except as otherwise provided in subsection 8, credits** earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. **Credits earned pursuant to this section by an offender who has not been convicted of:**

(a) **Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;**

(b) **A sexual offense that is punishable as a felony;**

(c) **A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or**

(d) **A category A or B felony,**

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~10~~ 20 days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than ~~30~~ 60 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement, or the laws of the State recorded against him must be allowed, in addition to the

credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~{30}~~ **60** days from the maximum term of his sentence for the **successful** completion of:

- (a) A program of vocational education and training; or
- (b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~{30}~~ **60** days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(c) Has not performed the duties assigned to him in a faithful and orderly manner;

(d) Has **ever** been convicted of a sexual offense ~~{,}~~ **that is punishable as a felony;**

(e) Has ~~{committed an act of serious violence during the previous year;}~~, **within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;** or

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program,

the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ **year**, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ **that is punishable as a felony; or**

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,]~~

➡ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years,]~~ **year**, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[;]~~ **that is punishable as a felony; or**

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[- or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.]~~

↪ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

- (b) Who was sentenced to serve a term of imprisonment for life.
- (c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.
- (d) Who was convicted as a habitual criminal.
- (e) Who is a repeat offender.
- (f) Who was convicted of any other type of offense.

➔ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

- (a) The severity of the crime committed;
- (b) The criminal history of the person;
- (c) Any disciplinary action taken against the person while incarcerated;
- (d) Any previous parole violations or failures;
- (e) Any potential threat to society or himself; and
- (f) The length of his incarceration.

3. **In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.**

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~4.4~~ **5.** The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~5.4~~ **6.** On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~6.4~~ **7.** The Board shall report to each regular session of the Legislature:

- (a) The number and percentage of the Board's decisions that conflicted with the standards;
- (b) The results and conclusions from the Board's review pursuant to subsection ~~5.4~~ **6.** and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~[Any]~~ ***Except as otherwise provided in NRS 209.4465, any*** credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.

Sec. 8.55. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

- (a) Has not been released on parole previously for that sentence; and
- (b) Is not otherwise ineligible for parole,

➤ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1. **If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.**

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner

must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require ~~the~~:

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~{(b) Require intensive}~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~{-}~~; **or**

(b) Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,
 ➡ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. As used in this section, “facility” has the meaning ascribed to it in NRS 209.065.

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential

confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~;~~

~~(b) Require the~~ **and require:**

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

~~;(c) Require intensive;~~

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~;~~ **or**

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

↪ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection ~~(2)~~ **3** and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall **, in addition to the term of imprisonment prescribed by statute for the crime,** be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ **minimum** term of ~~imprisonment prescribed by statute for the crime.~~

not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~(must run)~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ 3. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~{subsection}~~ subsections 1, ~~{1.}~~ and 2, if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;
- (b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~{3.—Subsection 1 does}~~

4. Subsections 1 and 2 do not create a separate offense but ~~{provides}~~ provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~{2}~~ 3 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~{4.}~~ 5. For the purposes of this section, “school bus” has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for ~~an additional term equal to the~~ a minimum term of ~~imprisonment prescribed by statute for the crime,~~ not less than 1 year and a maximum term of not more than 20 years.

(b) Commits any felony other than a category A or a category B felony shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for ~~an additional term not less than 25 percent and not more than 100 percent of the~~ a minimum term of ~~imprisonment prescribed by statute for the crime,~~ not less than 1 year and a maximum term of not more than 20 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. An additional sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 4. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~3.~~ 5. As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ minimum term of ~~imprisonment prescribed by statute for the crime,~~ not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~runs~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ **3.** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~{3.}~~ **4.** As used in this section, “metal-penetrating bullet” has the meaning ascribed to it in NRS 202.273.

Sec. 13. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall **, in addition to the term of imprisonment prescribed by statute for the crime,** be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ **minimum** term of ~~imprisonment prescribed by statute for the crime,~~ **not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:**

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~runs~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ **3.** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~{3.}~~ **4.** The provisions of subsections 1 ~~and~~ , 2 **and** 3 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~{4.}~~ **5.** The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

- (a) Murder;
- (b) Kidnapping in the first degree;
- (c) Sexual assault; or
- (d) Robbery.

~~15.1~~ **6.** As used in this section, “deadly weapon” means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 14. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

↪ shall **, in addition to the term of imprisonment prescribed by statute for the crime,** be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~term equal to and in addition to the~~ **minimum** term of ~~imprisonment prescribed by statute for that crime,~~ **not less than 1 year and a maximum term of not more than 20 years.** If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section ~~runs~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~2.~~ **4.** The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

~~3.~~ **5.** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 15. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$250 or more;
- (i) Obtaining money or property of a value of \$250 or more by false pretenses; or

(j) Taking money or property from the person of another,

↪ against any person who is 60 years of age or older or against a vulnerable person shall **, in addition to the term of imprisonment prescribed by statute for the crime, be punished , if the crime is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for state prison, whichever applies, for a term equal to [and in addition to] the term of imprisonment prescribed by statute for the crime [. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.] , and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.**

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall **, in addition to the term of imprisonment prescribed by statute for the criminal violation, be punished , if the criminal violation is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for**

~~state prison, whichever applies,] for a term equal to [and in addition to] the term of imprisonment prescribed by statute for the criminal violation [.] , and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.~~

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime or criminal violation;**
- (b) The criminal history of the person;**
- (c) The impact of the crime or criminal violation on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

4. The sentence prescribed by this ~~[subsection]~~ **section** must run consecutively with the sentence prescribed by statute for the **crime or** criminal violation.

~~[3.]~~ **5.** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[4.]~~ **6.** As used in this section, “vulnerable person” has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 16. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may **, in addition to the term of imprisonment prescribed by statute for the crime,** be punished by imprisonment in the state prison for ~~[an additional term not to exceed 25 percent of the]~~ **a minimum** term of ~~[imprisonment prescribed by statute for the crime.]~~ **not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:**

- (a) The facts and circumstances of the crime;**
- (b) The criminal history of the person;**
- (c) The impact of the crime on any victim;**
- (d) Any mitigating factors presented by the person; and**
- (e) Any other relevant information.**

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. A sentence imposed pursuant to this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ **3.** This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 17. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall **, in addition to the term of imprisonment prescribed by statute for the crime,** be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ **minimum** term of ~~imprisonment prescribed by the statute for the crime.~~ **not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:**

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

~~2.~~ The sentence prescribed by this section ~~{must run}~~ **:**

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ **3.** This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~{3.}~~ **4.** The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

~~{4.}~~ **5.** Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a

criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~5.1~~ **6.** In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

- (a) Characteristics of persons who are members of criminal gangs;
- (b) Specific rivalries between criminal gangs;
- (c) Common practices and operations of criminal gangs and the members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~6.1~~ **7.** As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

- (a) Has a common name or identifying symbol;
- (b) Has particular conduct, status and customs indicative of it; and
- (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ minimum term of imprisonment prescribed by statute for the crime, not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~must run~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~{2.}~~ **3.** Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~subsection 1,~~ **subsections 1 and 2,** if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~{3. Subsection 1 does}~~

4. Subsections 1 and 2 do not create a separate offense but ~~provides~~ **provide** an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~{2.}~~ **3** does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~{4.}~~ **5.** The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~{5.}~~ **6.** As used in this section, “act of terrorism” has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person’s conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~{2.}~~ **3** of NRS 193.161, subsection ~~{2.}~~ **3** of NRS

193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

(a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. **Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:**

(a) State Board of Pardons Commissioners to consider an application for clemency; and

(b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

~~{Sec. 10.}~~ **Sec. 21.** 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

~~{Sec. 11.}~~ **Sec. 22.** ~~{This act becomes}~~

1. This section and sections 1 to 19, inclusive, and 21 of this act become effective on July 1, 2007.

2. Section 20 of this act becomes effective on July 1, 2007, only if Assembly Bill No. 508 of this session becomes effective.

Assemblyman Parks moved that the Assembly concur in the Senate amendment to Assembly Bill No. 510.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 89.

Bill read third time.

Remarks by Assemblymen Parnell and Hardy.

Roll call on Assembly Bill No. 89:

YEAS—34.

NAYS—Beers, Christensen, Cobb, Goedhart, Goicoechea, Hardy, Mabey, Weber—8.

Assembly Bill No. 89 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 93.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 93:

YEAS—42.

NAYS—None.

Assembly Bill No. 93 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 141.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 141:

YEAS—42.

NAYS—None.

Assembly Bill No. 141 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 205.

Bill read third time.

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

Amendment No. 1092.

AN ACT making an appropriation to the Department of Administration for the purchase of motor pool vehicles; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Administration the sum of ~~[\$1,300,784]~~ **\$907,649** for the purchase of ~~[77]~~ **54** motor pool vehicles.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the

entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 544.

Bill read third time.

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

Amendment No. 1136.

AN ACT making an appropriation to the Department of Transportation for highway improvements; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Transportation ~~[the sum of \$170,000,000]~~ for improvements, ~~[to Interstate Highway 15 in Las Vegas]~~ funded by State General Fund revenues in excess of the spending cap ~~[]~~, to:

1. Interstate Highway 15 in Las Vegas, the sum of \$154,000,000.

2. State Route 160, Blue Diamond, from the junction with State Route 159 to Mountain Springs, the sum of \$16,000,000.

Sec. 2. Any remaining balance of the ~~[appropriation]~~ **appropriations** made by section 1 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the ~~[appropriation is]~~ **appropriations** **are** made or any entity to which money from ~~[the]~~ **an** appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 331.

Bill read third time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 1117.

SUMMARY—Makes various changes concerning ~~the support of~~ research and other activities concerning solid waste. (BDR 40-318)

AN ACT relating to natural resources; revising provisions concerning the use of certain money in the Solid Waste Management Account; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to ~~make grants to~~ **encourage** the Nevada System of Higher Education ~~for the support of~~ **to** research and ~~other activities relating to~~ **develop methods for** the reduction, reclamation and conversion of solid waste; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the proceeds from: (1) civil penalties for violations of certain laws concerning the management and disposal of solid waste; (2) damages recovered from persons or municipalities that violate those laws; and (3) the \$1 recycling fee that is collected on each new tire sold are deposited in the Solid Waste Management Account. (NRS 444.596, 444.598, 444A.090) The money in the Account is then allocated among the State Department of Conservation and Natural Resources and the various solid waste management authorities to be used for solid waste management and public education. (NRS 444.616) Under existing law, the Department is required to transfer a portion of the money it receives to the Division of Environmental Protection ~~of the Department~~ **to use for public education** ~~for~~ **concerning the State's plan for solid waste management.** Section 1 of this bill authorizes the Division to use this money to **also** support other activities that encourage the reduction of solid waste.

Under existing law, the Division is required to establish, sponsor, assist or otherwise conduct various programs and other activities that encourage the reduction of waste and litter. (NRS 444A.110) The Division conducts some of those activities on its own and others in conjunction with local governments, educational institutions and other state agencies. Section 2 of this bill expands the number of those activities to include ~~making grants to~~ **encouraging** the Nevada System of Higher Education ~~for the support of~~ **to** research ~~relating to~~ **and develop methods for** the reduction, reclamation and conversion of solid waste ~~for~~ **, including encouraging the Nevada System of Higher Education to seek money from public and private sources for that purpose.**

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

Section 1. NRS 444.616 is hereby amended to read as follows:

444.616 1. The State Controller shall allocate and remit, on a quarterly basis, the money in the Solid Waste Management Account as follows:

(a) To the Department of Taxation, 0.5 percent.

(b) To the State Department of Conservation and Natural Resources, 44.5 percent.

(c) To the district board of health of the health district which has the largest population in this State, 30 percent.

(d) To the district board of health of the health district which has the second largest population in this State, 25 percent.

➡ If more than two health districts are created within this State, the State Department of Conservation and Natural Resources shall transfer to the district boards of health of those additional districts an amount determined by the Department to be necessary to carry out the health district's duties pursuant to NRS 444.440 to 444.620, inclusive. If less than two health districts are created within this State, the amount otherwise allocated to a health district must be allocated to the State Department of Conservation and Natural Resources.

2. The money allocated pursuant to subsection 1 to the State Department of Conservation and Natural Resources and the district boards of health must be used for solid waste management in accordance with NRS 444.440 to 444.620, inclusive.

3. The State Department of Conservation and Natural Resources shall transfer to the Division of Environmental Protection of that Department a portion of the money it receives pursuant to this section it deems necessary for use in educating the public concerning the objectives and functioning of the State's plan for solid waste management ~~for~~ and the purposes set forth in NRS 444A.110.

Sec. 2. NRS 444A.110 is hereby amended to read as follows:

444A.110 1. The Division shall develop a program of public education to provide information, increase public awareness of the individual responsibility of properly disposing of solid waste and encouraging public participation in recycling, reuse and waste reduction. The program must be designed in accordance with the plans to provide for a solid waste management system approved pursuant to NRS 444.510 to communicate the importance of conserving natural resources, in addition to the importance of protecting public health and the environment. The program must include promotion of the private and public efforts to accomplish conservation, recovery and reuse.

2. The Division shall encourage the reduction of waste and litter by:

(a) Providing, upon request, advice to persons regarding techniques to reduce waste and general information on recycling.

(b) Establishing a computer database to process related information.

(c) Establishing a toll-free telephone line to assist in the dissemination of information.

(d) Sponsoring or cosponsoring technical workshops and seminars on waste reduction.

(e) Assisting local programs for the research and development of plans to reduce waste.

(f) Coordinating the dissemination of publications on waste reduction, regardless of the source of those publications.

(g) Assisting in the development and promotion of programs of continuing education for educators and administrators to enable them to teach and encourage methods of waste reduction.

(h) Developing an emblem to signify and advertise the efforts in Nevada to encourage recycling.

(i) Recommending to educational institutions courses and curricula relating to recycling and the reduction of waste.

(j) Assisting state agencies, upon request, to develop and carry out programs for recycling within state buildings.

(k) ~~Making grants to~~ Encouraging the Nevada System of Higher Education ~~for the support of~~ to research and ~~development concerning~~ develop methods for the reduction, reclamation and conversion of solid waste ~~for~~, including, without limitation, encouraging the Nevada System of Higher Education to seek money from public and private sources for that purpose.

3. The Division shall coordinate the technical assistance available from the various state agencies. The Administrator of the Division shall prepare and deliver biennial reports to the Governor regarding the progress of the program.

4. The Division may award grants to municipalities, educational institutions and nonprofit organizations for projects that enhance solid waste management systems and promote the efficient use of resources. The Division shall consult a solid waste management authority before awarding a grant for a project within the jurisdiction of that solid waste management authority.

5. The State Environmental Commission shall adopt regulations governing the administration of grants awarded pursuant to subsection 4.

6. As used in this section, unless the context otherwise requires, "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 3. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 341.

Bill read third time.

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

Amendment No. 1130.

AN ACT making supplemental appropriations to the Office of the Attorney General; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Office of the Attorney General's administration account the sum of \$685,979 for a cost allocation posting error in the amount of \$482,979, and a shortfall in revenue received from boards and commissions in the amount of \$203,000. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

2. There is hereby appropriated from the State General Fund to the Office of the Attorney General's special litigation account the sum of ~~[\$200,000]~~ **\$60,000** for costs relating to Yucca Mountain nuclear waste litigation. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

3. There is hereby appropriated from the State General Fund to the Office of the Extradition Coordinator in the Office of the Attorney General the sum of \$227,386 to replenish Fiscal Year 2006-2007 extradition funds used in 2006, and to supplement funds for Fiscal Year 2006-2007 due to increased extradition costs. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 380.

Bill read third time.

Roll call on Senate Bill No. 380:

YEAS—42.

NAYS—None.

Senate Bill No. 380 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 444.

Bill read third time.

Roll call on Senate Bill No. 444:

YEAS—41.

NAYS—Leslie.

Senate Bill No. 444 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 455.

Bill read third time.

Roll call on Senate Bill No. 455:

YEAS—42.

NAYS—None.

Senate Bill No. 455 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 205.

Bill read third time.

Roll call on Assembly Bill No. 205:

YEAS—42.

NAYS—None.

Assembly Bill No. 205 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 331.

Bill read third time.

Remarks by Assemblyman Beers.

Roll call on Senate Bill No. 331:

YEAS—42.

NAYS—None.

Senate Bill No. 331 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 341.

Bill read third time.

Roll call on Senate Bill No. 341:

YEAS—42.

NAYS—None.

Senate Bill No. 341 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 544.

Bill read third time.

Roll call on Assembly Bill No. 544:

YEAS—42.

NAYS—None.

Assembly Bill No. 544 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Koivisto moved that the Assembly recede from its action on Senate Bill No. 401.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Bobzien, Smith, and Hardy as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 244.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 165.

The following Senate amendment was read:

Amendment No. 940.

AN ACT relating to public safety; creating the Justice Assistance Grant Trust Account in the State General Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law establishes the Edward Byrne Memorial Justice Assistance Grant Program. (42 U.S.C. §§ 3750 et seq.) The grant program authorizes the Attorney General of the United States to make grants of money to states to provide additional personnel, equipment, supplies, contractual support, training, technical assistance and information systems for criminal justice. (42 U.S.C. § 3751) The grant program also requires each state to establish a trust fund in which to deposit money received by the state from the grant program. (42 U.S.C. § 3757) This bill, in compliance with federal law, establishes such a trust account for all money received by the State of Nevada from the Grant Program.

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

Section 1. Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Justice Assistance Grant Trust Account is hereby created in the State General Fund. All money received by the State of Nevada pursuant to the Edward Byrne Memorial Justice Assistance Grant Program, 42 U.S.C. §§ 3750 et seq., must be deposited in the Trust Account.

2. The Director shall administer the Trust Account.

3. The money in the Trust Account may only be expended in accordance with the provisions of the Edward Byrne Memorial Justice Assistance Grant Program, 42 U.S.C. §§ 3750 et seq., and any regulations adopted pursuant thereto.

4. *The interest and income earned on the money in the Trust Account, after deducting any applicable charges, must be credited to the Trust Account.*

Sec. 2. This act becomes effective ~~on July 1, 2007,~~ **upon passage and approval and applies retroactively from October 5, 2005.**

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 165.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and that for the balance of the session all bills and resolutions passed or adopted be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 12:17 p.m.

ASSEMBLY IN SESSION

At 12:20 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly recess until 4:30 p.m.

Motion carried.

Assembly in recess at 12:20 p.m.

ASSEMBLY IN SESSION

At 5:30 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 144, 186.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 88, Senate Amendment No. 678, and requests a conference, and appointed Senators Townsend, Hardy and Schneider as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 585.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 48.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1081 to Senate Bill No. 422; Assembly Amendment No. 1090 to Senate Bill No. 499.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 1018, 1123 to Senate Bill No. 490.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Horsford, Wiener and Washington as a first Conference Committee concerning Senate Bill No. 354.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, Smith, and Allen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 88.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 48.

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 617, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 191, 547, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 563, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 303, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 836 of the Assembly be concurred in.

BERNIE ANDERSON
MARK MANENDO
JOHN CARPENTER
Assembly Conference Committee

STEVEN HORSFORD
JOHN LEE
DENNIS NOLAN
Senate Conference Committee

Assemblyman Anderson moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 303.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the action whereby the Assembly refused to concur in Senate Amendments Nos. 990 and 1111 to Assembly Bill No. 161 be rescinded.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 161.

The following Senate amendment was read:

Amendment No. 990.

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; **authorizing the Commissioner to conduct certain investigations**; increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; **revising various provisions governing industrial insurance**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.230-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner ~~(of Insurance)~~ when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines “tangible net worth” for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

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

Section 1. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.

2. The Commissioner may:

(a) Use employees of the Division as investigators; or

(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall determine the qualifications required of such investigators, except that no investigator who provides services pursuant to this paragraph may be in the classified service of the State.

3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:

(a) Travel within or outside this State; and

(b) Cooperate with appropriate agencies or persons within or outside this State.

4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.

5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.

6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.290.

7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid.

~~[Section 1.]~~ **Sec. 1.03.** NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~[The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the~~

~~following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

4.] The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as otherwise provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~to~~ other than a parent corporation, ~~and~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~policy~~:

(1) Policy loans authorized under NRS 682A.170 ~~to~~; or

(2) Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer.

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. **1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to**

transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.

Sec. 1.5. *1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:*

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, **and section 1.5 of this act**, unless the context otherwise requires, the words and

terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~{Except as otherwise provided in this paragraph, a}~~ A financial statement of the administrator that has been ~~{audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been}~~ reviewed by an independent certified public accountant . ~~{if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.}~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~{On or before September 1 of each year, the}~~ **The** Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ **authorized to transact business on behalf of** the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~}; and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form

prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal

and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~[affiliation with]~~ **authorization to transact business on behalf of** a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors **of the Association** shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[\$150]~~ **\$300** for each member insurer for any ~~one~~ **1** calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to **a change in the rate for** a policy of industrial insurance ~~[]~~ **which is based on:**

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{, a person}~~ ***or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or*** promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2.}~~ ***(b)*** The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on

the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3.}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. **Except as otherwise provided in subsection 2:**

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ **(b)** The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ **(c)** The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.}~~ **(d)** Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[-a person]~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in

accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ **(b)** The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ **(c)** The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.—Except}~~

(d) The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~for certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.~~ , **contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.** Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{,}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

(a) Limited-scope dental or vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

(a) Coverage that is only for a specified disease or illness; and

(b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~or~~ **or the product offered.**

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who

have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~the claim is closed under the policy,~~ **the end of a calendar quarter**, submit a report to the Commissioner concerning ~~the claim,~~ **each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter.** The report must include, without limitation:

(a) The name and address of the claimant and the insured under ~~the~~ **each** policy;

(b) A statement setting forth the circumstances of ~~the~~ **that** case;

(c) Information indicating whether any payment was made on ~~the~~ **a** claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144 ~~for~~ **each claim.**

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~{1.}~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~{2.}~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS **683A.321, 683A.331, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520** apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

(a) For a pure captive insurer, not less than ~~[\$100,000.;~~ **\$200,000;**

(b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000.;~~ **\$500,000;**

(c) For an agency captive insurer, not less than ~~[\$300,000.;~~ **\$600,000;**

(d) For a rental captive insurer, not less than ~~[\$400,000.;~~ **\$800,000;** and

(e) For a sponsored captive insurer, not less than ~~[\$200,000.;~~ **\$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital **and surplus** required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital **or surplus** based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~{}~~ **and surplus**, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital **and surplus** required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

- (1) Is insolvent or has impaired its required capital or surplus;
 - (2) Has failed to meet a requirement of NRS 694C.250, ~~694C.260,~~ 694C.320 or 694C.330;
 - (3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;
 - (4) Has failed to comply with the provisions of its charter or bylaws;
 - (5) Has failed to submit to an examination required pursuant to NRS 694C.410;
 - (6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;
 - (7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or
 - (8) Has failed otherwise to comply with the laws of this State; and
- (b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

- (a) Is first approved in writing by the Commissioner;
- (b) Is evidenced by a note that is in a form that is approved by the Commissioner; and
- (c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer , ~~or~~ rental captive insurer **or sponsored captive insurer** shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once~~

~~(a) Every 6 months for the first~~ ***not less frequently than once every*** 3 years, ~~[after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
→} conduct an examination of ~~the~~ ***an organization for dental care*** pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~{2}~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement **or to pay timely the annual fee** required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ **commenced must be filed in the manner and form established by the receiver and** set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ **that** amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ **must** be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~shall~~ **must** be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~[-]~~ **or as directed by the court.**

3. ~~{Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.} Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:~~

(a) Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and

(b) If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.

4. The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there

are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.

5. The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.

6. The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.

7. Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.

8. If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

9. A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS 683A.261.
4. NRS 683A.301.
5. NRS 683A.311.
6. **NRS 683A.331.**
7. NRS 683A.341.
- ~~{7.}~~ 8. NRS 683A.361.
- ~~{8.}~~ 9. NRS 683A.400.
- ~~{9.}~~ 10. NRS 683A.451.
- ~~{10.}~~ 11. NRS 683A.461.
- ~~{11.}~~ 12. NRS 683A.480.
- ~~{12.}~~ 13. NRS 683A.500.
- ~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{-}~~ , **and section 29.5 of this act.**

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{-}~~ , **and section 29.5 of this act.**

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means **the value of** all ~~{of}~~ the assets , **minus the value of all the liabilities**, of an association of self-insured private employers or of a member of such an association except:

1. ~~{Accounts receivable, if they are factored or collateralized.}~~
2. ~~An inventory, except one held for resale and not collateralized.~~
3. ~~A prepaid expense.~~
4. ~~An unqualified investment.~~
5. ~~An allocated bond fund.~~
6. ~~An investment in an affiliate.~~
7. ~~A restricted fund.~~
8. ~~A reserve.~~
9. ~~A security cost, such as a capitalized bond cost.~~
10. ~~A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
11. ~~A contingency or commitment, including any estimated cost.~~
12. ~~Any book adjustment caused by a change in an accounting policy or a restatement.~~

~~13.}~~ Goodwill or excess cost over the fair market value of assets.

~~{14.}~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. **For the purposes of this subsection, an employer has sufficient financial resources if the employer has:**

(a) A tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) Net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

(1) The number of members in the association;

(2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;

(3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;

(4) The number of years the association has been in existence; and

(5) Such other information as the Commissioner deems necessary.

➡ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that

the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall maintain ~~to~~ **either:**

(a) A combined tangible net worth of all members in the association of at least \$2,500,000 ~~to~~, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least \$500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at least~~ **either:**

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating

solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~to~~ **either:**

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any

other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~{30}~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~[-]~~, **and section 29.5 of this act.**

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

(a) For a pure captive insurer, not less than \$100,000;

(b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;

(c) For an agency captive insurer, not less than \$300,000;

(d) For a rental captive insurer, not less than \$400,000;

(e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and

(f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Assemblyman Ocegüera moved that the Assembly concur in the Senate Amendment No. 990 to Assembly Bill No. 161.

Remarks by Assemblyman Ocegüera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1111.

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; ~~authorizing the~~

~~Commissioner to conduct certain investigations;]~~ increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; revising various provisions governing industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.230-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.]~~

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner **of Insurance** when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the

receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines “tangible net worth” for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law provides that an employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) Section 30.8 of this bill clarifies that such a company shall be deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). Section 30.8 also clarifies the prohibition against such a company offering a self-funded industrial insurance program.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

Chapter 616B of NRS governs providers of industrial insurance. Under existing law, certain employers and associations of employers may qualify as self-insurers. (NRS 616B.300, 616B.353, 616B.386) Section 29.5 of this bill requires associations of self-insured public and private employees to provide to members certain information regarding claims at the request of the member. Sections 29.7, 29.8 and 30 of this bill provide specific fiscal requirements for qualification as a self-insured employer or an association of self-insured public or private employers.

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

Section 1. ~~{Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.~~

~~2. The Commissioner may:~~

~~(a) Use employees of the Division as investigators; or~~
~~(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall determine the qualifications required of such investigators, except that no~~

~~investigator who provides services pursuant to this paragraph may be in the classified service of the State.~~

~~3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:~~

~~(a) Travel within or outside this State; and~~

~~(b) Cooperate with appropriate agencies or persons within or outside this State.~~

~~4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.~~

~~5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.~~

~~6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.200.~~

~~7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid. (Deleted by amendment.)~~

Sec. 1.03. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~{The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during~~

~~each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

~~4.]~~ The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as ***otherwise*** provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~{,}~~ other than a parent corporation, ~~{,}~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~{policy}~~:

(1) Policy loans authorized under NRS 682A.170 ~~{,}~~; ***or***

(2) Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer ~~{,}~~ and which conform to the standards set forth in NRS 682A.230.

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. ***1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.***

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.

Sec. 1.5. 1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, **and section 1.5 of this act**, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~{Except as otherwise provided in this paragraph, a}~~ A financial statement of the administrator that has been ~~{audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been}~~ reviewed by an independent certified public accountant. ~~{if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.}~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~{On or before September 1 of each year, the}~~ **The** Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ **authorized to transact business on behalf of** the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~}; and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History

for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~[affiliation with]~~ **authorization to transact business on behalf of** a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is

satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors *of the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it.

If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[\$150]~~ **\$300** for each member insurer for any ~~one~~ **1** calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to ***a change in the rate for a policy of industrial insurance*** ~~[-]~~ ***which is based on:***

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{, a person}~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2.}~~ **(b)** The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3.}~~ **(c)** The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of

the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. **Except as otherwise provided in subsection 2:**

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ **(b)** The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ **(c)** The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.}~~ **(d)** Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~from a person~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract,

to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was

received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.—Except}~~

(d) ***The trustee shall, except*** as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. ***The requirements of subsection 1 do not apply if:***

(a) ***The prepaid contract is payable solely from the proceeds of a policy of life insurance; and***

(b) ***The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.***

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~{or certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.}~~ , ***contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.*** Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{,}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;
 (i) Coverage under a blanket student accident and health insurance policy;
 and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~[-]~~ **or the product offered.**

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~{a claim is closed under the policy,}~~ **the end of a calendar quarter**, submit a report to the Commissioner concerning ~~{the claim,}~~ **each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter.** The report must include, without limitation:

(a) The name and address of the claimant and the insured under ~~{the}~~ **each** policy;

(b) A statement setting forth the circumstances of ~~{the}~~ **that** case;

(c) Information indicating whether any payment was made on ~~{the}~~ **a** claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144 ~~{,}~~ **for each claim.**

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~{1.}~~ **(a)** A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~{2-}~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. *The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.*

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS ~~683A.321, 683A.331,~~ 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

- (a) For a pure captive insurer, not less than ~~[\$100,000;]~~ **\$200,000;**
- (b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ **\$500,000;**
- (c) For an agency captive insurer, not less than ~~[\$300,000;]~~ **\$600,000;**
- (d) For a rental captive insurer, not less than ~~[\$400,000;]~~ **\$800,000;** and
- (e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ **\$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital **and surplus** required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital **or surplus** based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~{-}~~ **and surplus**, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital **and surplus** required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

- (1) Is insolvent or has impaired its required capital or surplus;
- (2) Has failed to meet a requirement of NRS 694C.250, ~~694C.260,~~ 694C.320 or 694C.330;
- (3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;
- (4) Has failed to comply with the provisions of its charter or bylaws;
- (5) Has failed to submit to an examination required pursuant to NRS 694C.410;
- (6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;
- (7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or
- (8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

- (a) Is first approved in writing by the Commissioner;
- (b) Is evidenced by a note that is in a form that is approved by the Commissioner; and
- (c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer , ~~or~~ rental captive insurer **or sponsored captive insurer** shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once~~

~~(a) Every 6 months for the first~~ **not less frequently than once every 3** years, ~~[after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
→} conduct an examination of ~~the~~ **an organization for dental care** pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~{2}~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement **or to pay timely the annual fee** required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ **commenced must be filed in the manner and form established by the receiver and** set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ **that** amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ **must** be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~shall~~ **must** be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~[-]~~ **or as directed by the court.**

3. ~~{Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.} Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:~~

(a) Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and

(b) If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.

4. The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there

are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.

5. The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.

6. The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.

7. Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.

8. If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

9. A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS 683A.261.
4. NRS 683A.301.
5. NRS 683A.311.
6. **NRS 683A.331.**
7. NRS 683A.341.
- ~~{7.}~~ 8. NRS 683A.361.
- ~~{8.}~~ 9. NRS 683A.400.
- ~~{9.}~~ 10. NRS 683A.451.
- ~~{10.}~~ 11. NRS 683A.461.
- ~~{11.}~~ 12. NRS 683A.480.
- ~~{12.}~~ 13. NRS 683A.500.
- ~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{-}~~ , **and section 29.5 of this act.**

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{-}~~ , **and section 29.5 of this act.**

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means **the value of** all ~~{of}~~ the assets , **minus the value of all the liabilities**, of an association of self-insured private employers or of a member of such an association except:

1. ~~{Accounts receivable, if they are factored or collateralized.}~~
2. ~~An inventory, except one held for resale and not collateralized.~~
3. ~~A prepaid expense.~~
4. ~~An unqualified investment.~~
5. ~~An allocated bond fund.~~
6. ~~An investment in an affiliate.~~
7. ~~A restricted fund.~~
8. ~~A reserve.~~
9. ~~A security cost, such as a capitalized bond cost.~~
10. ~~A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
11. ~~A contingency or commitment, including any estimated cost.~~
12. ~~Any book adjustment caused by a change in an accounting policy or a restatement.~~

~~13.}~~ Goodwill or excess cost over the fair market value of assets.

~~{14.}~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify **and remain qualified** as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. ***For the purposes of this subsection, an employer has sufficient financial resources if:*** ~~*the employer has:*~~

(a) ~~*At the time of initial qualification and until the employer has operated successfully as a qualified self-insured employer for 3 years, as determined by the Commissioner, the employer has a tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or*~~

(b) ~~*After 3 years of successful operation as a qualified self-insured employer, as determined by the Commissioner, the employer has net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.*~~

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

(1) The number of members in the association;

(2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;

(3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;

(4) The number of years the association has been in existence; and

(5) Such other information as the Commissioner deems necessary.

➡ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner

to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall ~~maintain~~ ~~either~~

(a) ~~At~~ At the time of initial qualification and until the association has operated successfully as a qualified association of self-insured private employers for 3 years, as determined by the Commissioner, have a combined tangible net worth of all members in the association of at least \$2,500,000 ~~[-]~~, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) ~~Combined~~ After 3 years of successful operation as a qualified association of self-insured private employers, as determined by the Commissioner, have combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's

administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least \$500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~as~~, ***as determined by the Commissioner, either:***

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five

times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at least~~ ***as determined by the Commissioner, either:***

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~{30}~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act**, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~and~~, **and section 29.5 of this act**.

Sec. 30.8. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the

provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~2. As~~ **If an employee leasing company complies with the provisions of subsection 3, the** employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans ~~for~~, **including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974.**

3. An employee leasing company shall not offer its employees any self-funded **industrial** insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, ~~for pursuant to title 57 of NRS.~~

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

- (a) For a pure captive insurer, not less than \$100,000;
- (b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;
- (c) For an agency captive insurer, not less than \$300,000;
- (d) For a rental captive insurer, not less than \$400,000;
- (e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and
- (f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Assemblyman Ocegüera moved that the Assembly concur in the Senate Amendment No. 1111 to Assembly Bill No. 161.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 621.

The following Senate amendment was read:

Amendment No. 1083.

AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon the Leadership in Energy and

Environmental Design Green Building Rating System, and authorize the Director to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices for the storage of electrical energy. (NRS 361.0685, 361.0687) Sections 4, 5, 8 and 16 of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Sections 6 and 16 of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) Sections 7 and 11 of this bill repeal those terms and prescribe substantially identical terms.

Sections 12 and 16 of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. ~~[Section 13 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.]~~

Existing law requires an analysis of the cost of operating and maintaining certain public buildings prior to their construction or renovation. (NRS 338.190) Section 16 of this bill repeals those requirements.

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.*

2. *The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:*

(a) *Except as otherwise provided in paragraphs (b) and (c), must not include:*

(1) *Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or*

(2) *Standards for homes;*

(b) *Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and*

(c) *Must require a building or other structure to obtain:*

(1) *At least 3 points of credit for energy conservation to meet the equivalent of the silver level;*

(2) *At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and*

(3) *At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.*

3. *As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.*

Sec. 3. 1. *Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act, if:*

(a) *No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:*

(1) *Private activity bonds must not be considered funding provided by a governmental entity.*

(2) *The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.*

(b) *The owner of the property:*

(1) *Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed*

on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.

2. As soon as practicable after the Director receives:

(a) The application required by subsection 1, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;
- (2) Department of Taxation;
- (3) County assessor;
- (4) County treasurer; and
- (5) Commission on Economic Development.

(b) The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

3. As soon as practicable after receiving a copy of ~~the~~ an:

(a) An application pursuant to paragraph (a) of subsection 2 ~~[, the]~~:

(1) The Chief of the Budget Division ~~and each affected local government]~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~[that governmental entity]~~ the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public

education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~and~~, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education ~~for~~ of pupils in kindergarten through grade 12.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which

the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↪ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

Sec. 5. 1. If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:

(a) The partial abatement must be:

(1) For a duration of 10 years;

(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year; and

(3) Administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall:

(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and

(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.

2. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 kilowatts.

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) *"Renewable energy" means:*

- (1) *Biomass;*
- (2) *Solar energy; or*
- (3) *Wind.*

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 6. 1. *For purposes of the assessment of property pursuant to chapter 361 of NRS:*

(a) *Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.*

(b) *Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

2. *The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.*

3. *As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:*

(a) *Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;*

(b) *Geothermal resources;*

(c) *Energy derived from conversion of solid wastes; or*

(d) *Waterpower,*

↪ *which conforms to standards established by regulation of the Department of Taxation.*

Sec. 7. *If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:*

1. *The taxpayer is eligible for the abatement for 2 years.*

2. *The abatement must be administered and carried out in the manner set forth in NRS 360.750.*

3. *For the purposes of this section and the abatement, unless the context otherwise requires:*

(a) *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

- (1) *Agricultural crops and agricultural wastes and residues;*
- (2) *Wood and wood wastes and residues;*
- (3) *Animal wastes;*
- (4) *Municipal wastes; and*
- (5) *Aquatic plants.*

(b) *"Eligible machinery or equipment" means:*

(1) *If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:*

- (I) *Buildings or the structural components of buildings;*
- (II) *Equipment used by a public utility;*
- (III) *Equipment used for medical treatment;*
- (IV) *Machinery or equipment used in mining;*
- (V) *Machinery or equipment used in gaming; or*
- (VI) *Aircraft.*

(2) *If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.*

(c) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(d) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

- (1) *Uses renewable energy as its primary source of energy; and*
- (2) *Has a generating capacity of at least 10 kilowatts.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(e) *"Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

(f) *"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (1) *Biomass;*
- (2) *Fuel cells;*
- (3) *Geothermal energy;*
- (4) *Solar energy;*
- (5) *Waterpower; and*
- (6) *Wind.*

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 8. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$2,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~[NRS 361.0685 and subsection 4,]~~ **sections 4 and 5 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. ~~[If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The partial abatement must be:~~

~~(1) For a duration of 10 years;~~
~~(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~

~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~

~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

~~5.] As used in this section [:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~→ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial", "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy [:~~

~~(e) "Renewable energy" means:~~

~~(1) Biomass;~~

~~(2) Solar energy; or~~

~~(3) Wind.~~

~~→ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.] , as that term is defined in section 5 of this act.~~

Sec. 9. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~NRS 361.0685,~~ **section 4 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a

partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 10. NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~from taxation~~ to which a person may be entitled **from the taxes imposed** pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.

2. Any partial exemptions to which the person is entitled ~~. pursuant to this chapter.~~

3. Any partial abatements to which the person is entitled ~~pursuant to this chapter~~ other than a partial abatement described in subsection 1.

Sec. 11. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~subsection 3,~~ **section 7 of this act**, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

4. ~~As used in~~ **For the purposes of** this section, **except as otherwise provided in section 7 of this act or** unless the context otherwise requires ~~:-~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Eligible", "eligible~~ machinery or equipment" means ~~:-~~

~~(1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,]~~ machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- ~~[(4)]~~ (a) Buildings or the structural components of buildings;
- ~~[(4)]~~ (b) Equipment used by a public utility;
- ~~[(4)]~~ (c) Equipment used for medical treatment;
- ~~[(4)]~~ (d) Machinery or equipment used in mining;
- ~~[(V)]~~ (e) Machinery or equipment used in gaming; or
- ~~[(VI)]~~ (f) Aircraft.

~~[(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

- ~~(1) Biomass;~~
- ~~(2) Fuel cells;~~
- ~~(3) Geothermal energy;~~
- ~~(4) Solar energy;~~
- ~~(5) Waterpower; and~~
- ~~(6) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.]~~

Sec. 12. Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

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

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

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

(b) On July 1, 2006, for all other purposes.

6. ~~{Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.~~

~~7.}~~ Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

(a) The Green Building Rating System required by section 2 of this act;

and

(b) The regulations required by section 3 of this act. ~~{; and~~

~~(c) The Green Building Rating System required by section 13 of this act.}~~

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

Sec. 15. 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section. The provisions of this act do not affect the terms of any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section.

5. The tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; ~~and~~

(b) For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

Sec. 15.5. 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; ~~and~~

(b) For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217 ~~and~~

2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:

(a) Private activity bonds must not be considered funding provided by a governmental entity.

(b) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

3. To obtain the partial abatement, the owner of the property must:

(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.

4. As soon as practicable after the Director receives:

(a) The application required by subsection 3, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;
- (2) Department of Taxation;
- (3) County assessor;
- (4) County treasurer; and
- (5) Commission on Economic Development.

(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

5. As soon as practicable after receiving a copy of ~~an~~ :

(a) ~~An~~ application pursuant to paragraph (a) of subsection 4 ~~[, the]~~ :

(1) The Chief of the Budget Division ~~and each affected local government~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~that governmental entity,~~ the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on

each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to paragraph (b) of subsection 4, the Department of Taxation shall forward a copy of the certificate to each affected local government.

6. The partial abatement:

(a) Must be for a duration of ~~not more than~~ 10 years , **unless earlier terminated pursuant to paragraph (c)**, and in an annual amount that equals 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~and~~ , **who shall immediately notify each affected local government of the determination;**

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

7. The Director shall:

(a) Adopt regulations:

(1) Establishing the qualifications and methods to determine eligibility for the abatement;

(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

8. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to ~~the~~ public education ~~to~~ **of pupils in kindergarten through grade 12.**

Sec. 16. 1. NRS **338.190**, 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

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

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

338.190 Analysis of certain public buildings before construction or renovation to estimate certain costs and to identify measures for conservation of energy and use of alternative types of energy; requirements for contracts for cost-saving measures.

1. Before it begins to construct or renovate any occupied public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy,

↪ which can be included in the building in its construction or renovation.

3. The agency of government which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.

4. The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section, “occupied public building” means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

- (1) Be for a duration of at least 1 year but not more than 10 years;
- (2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and
- (3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a “facility for the generation of electricity from recycled material” is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

➡ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The Nevada Tax Commission;
- (c) The county treasurer; and
- (d) The county assessor.

361.079 Exemption of qualified systems for heating, cooling or provision of electricity.

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

↪ which conforms to standards established by regulation of the Department.

701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or

structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;
- (b) Standards for indoor environmental quality;
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;
- (d) Standards for the efficient use of energy; and
- (e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

- (a) The gathering and development of scientific data;
- (b) Comments from representatives of the building industry;
- (c) Consensus from representatives of the building industry;
- (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;
- (e) A pilot program for the purpose of refining the standards; and
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.

2. During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:

(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and

(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.

3. Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.

4. As used in this section, “occupied public building” means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 621.

Remarks by Assemblywomen Kirkpatrick and Smith.

Assemblyman Ocegüera moved that the following remarks be entered in the Journal.

ASSEMBLYWOMAN KIRKPATRICK:

When the Legislature enacted A.B. 3 of the 22nd Special Session, it established state tax policy to encourage “green” buildings. However, the Legislature did not establish any contractual or vested rights for those businesses that applied or qualified for the tax abatements and exemptions. Under well-established legal principles, those businesses are presumed to know that one Legislature cannot bind a subsequent Legislature when it is making general tax policy. Therefore, this Legislature has the power to adjust the state’s tax policy and may amend the tax abatements and exemptions enacted by A.B. 3, regardless of whether any business has already incurred expense to comply with the requirements of the tax abatements and exemptions.

By enacting A.B. 621, this Legislature is making a policy decision to adjust the tax abatements and exemptions to protect the important fiscal needs of this State but without entirely eliminating the important tax incentives we enacted to promote the efficient use of energy. Simply stated, A.B. 621 is about balance and fairness.

To achieve that balance and fairness, A.B. 621 establishes a bright-line test to determine which businesses will continue to qualify under the original tax abatements and exemptions, subject to the modifications being made by this bill. Sections 15 and 15.5 establish three

conditions, all of which must be met by the business and all of which rely on easily ascertainable and highly verifiable information. Importantly, the business must have an opinion letter that was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial tax exemption under A.B. 3 if certain conditions are met. This requirement will make A.B. 621 easier to administer and will establish a fair and reasonable method for determining which businesses will continue to qualify under the original tax abatements and exemptions and which businesses must proceed under the new procedures enacted by the bill.

I just wanted to enter the legislative intent into the record and how we came to where we are today. This is good public policy. We analyzed it thoroughly, went through a lot of documents, and spent a lot of time on this issue. It is important that we concur with the Senate amendment. We now have that bright line, and I urge your support.

ASSEMBLYWOMAN SMITH:

I rise in support of the motion to concur. This is an important piece of legislation for us to move forward. We need to get this done. One of the things to remember is that this legislation is about policy and not about individuals or a who-is-in and who-is-out idea. We would like to stay focused on the fact that we developed what we believed was the best policy. That process has been seen by everybody throughout the last few weeks. I want us to be able to feel good about the hearings that were conducted and about making decisions based solely on policy. I encourage your support of this motion.

I would also like to thank my colleague for spending so much time with me over the last few weeks working on this issue. It has been a wonderful learning experience for us.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Koivisto moved that the Assembly do not recede from its action on Senate Bill No. 490, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Koivisto.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Ocegüera, Conklin, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 490.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 536.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 536, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 858 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 20, which is attached to and hereby made a part of this report.

ELLEN KOIVISTO
ROSEMARY WOMACK
VALERIE WEBER

Assembly Conference Committee

MAURICE WASHINGTON

JOSEPH HECK

Senate Conference Committee

Conference Amendment No. CA20.

AN ACT relating to public health; exempting certain entities that comply with the provisions of federal law governing the electronic transmission of certain health information from provisions of state law that provide more stringent privacy requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy of certain individually identifiable health information. (Public Law No. 104-191) HIPAA and the federal regulations to carry out that Act contain provisions which address the use and disclosure of individually identifiable health information by certain covered entities, including certain health plans, health care providers and health care clearinghouses. Among the federal requirements are provisions governing the electronic transmission of such health information. (42 U.S.C. §§ 1320d et seq.)

HIPAA further provides that if a state law imposes requirements or standards concerning the privacy of health information, the state law preempts HIPAA to the extent that the state law is more stringent than HIPAA. Section 1 of this bill changes the effect of this state law preemption with respect to the electronic transmission of individually identifiable health information by exempting a covered entity that complies with HIPAA from any state law governing the privacy of health information which is more stringent. Section 1 also requires a covered entity that makes individually identifiable health information available electronically to allow ~~any~~ a person **under certain circumstances** to opt out of having his individually identifiable health information disclosed electronically to other covered entities.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a covered entity transmits electronically individually identifiable health information in compliance with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, which govern the electronic transmission of such information, the covered entity is, for purposes of the electronic transmission, exempt from any state

law that contains more stringent requirements or provisions concerning the privacy or confidentiality of individually identifiable health information.

2. A covered entity that makes individually identifiable health information available electronically pursuant to subsection 1 shall allow any person to opt out of having his individually identifiable health information disclosed electronically to other covered entities, except ~~as~~ :

(a) As required by the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(b) As otherwise required by a state law.

(c) That a person who is a recipient of Medicaid or insurance pursuant to the Children's Health Insurance Program may not opt out of having his individually identifiable health information disclosed electronically.

3. As used in this section:

(a) "Covered entity" has the meaning ascribed to it in 45 C.F.R. § 160.103.

(b) "Individually identifiable health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, or by any person who has a communicable disease, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except : ~~as follows:~~

1. As otherwise provided in section 1 of this act.

2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

~~{2.}~~ *3. In a prosecution for a violation of this chapter.*

~~{3.}~~ *4. In a proceeding for an injunction brought pursuant to this chapter.*

~~{4.}~~ *5. In reporting the actual or suspected abuse or neglect of a child or elderly person.*

~~{5.}~~ *6. To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.*

~~{6.}~~ *7. If the person who is the subject of the information consents in writing to the disclosure.*

~~{7.}~~ *8. Pursuant to subsection 2 of NRS 441A.320 or NRS 629.069.*

~~{8.}~~ *9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness*

related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

~~{9.}~~ **10.** To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

~~{10.}~~ **11.** If the disclosure is authorized or required by specific statute.

Sec. 4. NRS 441A.230 is hereby amended to read as follows:

441A.230 Except as otherwise provided in this chapter ~~{.}~~ **and section 1 of this act**, a person shall not make public the name of, or other personal identifying information about, a person infected with a communicable disease who has been investigated by the health authority pursuant to this chapter ~~{.}~~ without the consent of the person.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 442.330 is hereby amended to read as follows:

442.330 1. ~~{Information}~~ **Except as otherwise provided in section 1 of this act, information** obtained by the system from any source may be used only:

(a) To investigate the causes of birth defects and other adverse birth outcomes;

(b) To determine, evaluate and develop strategies to prevent the occurrence of birth defects and other adverse birth outcomes;

(c) To assist in the early detection of birth defects; and

(d) To assist in ensuring the delivery of services for children identified with birth defects.

2. The State Board of Health shall adopt regulations to ensure that ~~{.}~~, **except as otherwise provided in subsection 3 and section 1 of this act:**

(a) Access to information contained in the system is limited to persons authorized and approved by the State Health Officer or his representative who are employed by the Health Division or the University of Nevada School of Medicine.

(b) Any information obtained by the system that would reveal the identity of a patient remains confidential.

(c) ~~{Except as otherwise provided in subsection 3, information}~~ **Information** obtained by the system is used solely for the purposes set forth in subsection 1.

3. This section does not prohibit the publishing of statistical compilations relating to birth defects and other adverse birth outcomes that do not in any manner identify individual patients or individual sources of information.

Sec. 7. NRS 442.395 is hereby amended to read as follows:

442.395 ~~{If}~~ **Except as otherwise provided in section 1 of this act, if** a pregnant woman is referred to the Health Division by a provider of health care or other services for information relating to programs for the prevention and treatment of fetal alcohol syndrome, any report relating to the referral or

other associated documentation is confidential and must not be used in any criminal prosecution of the woman.

Sec. 8. NRS 449.720 is hereby amended to read as follows:

449.720 **1.** Every patient of a medical facility, facility for the dependent or home for individual residential care has the right to:

~~{1.}~~ **(a)** Receive considerate and respectful care.

~~{2.}~~ **(b)** Refuse treatment to the extent permitted by law and to be informed of the consequences of that refusal.

~~{3.}~~ **(c)** Refuse to participate in any medical experiments conducted at the facility.

~~{4.}~~ **(d)** Retain his privacy concerning his program of medical care. ~~{Discussions of a patient's care, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient, except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705, and chapter 629 of NRS, are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.}~~

~~5.}~~ **(e)** Have any reasonable request for services reasonably satisfied by the facility or home considering its ability to do so.

~~{6.}~~ **(f)** Receive continuous care from the facility or home. The patient must be informed:

~~{(a)}~~ **(1)** Of his appointments for treatment and the names of the persons available at the facility or home for those treatments; and

~~{(b)}~~ **(2)** By his physician or an authorized representative of the physician, of his need for continuing care.

2. Except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS and section 1 of this act, discussions of the care of a patient, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 458.280 is hereby amended to read as follows:

458.280 **1.** Except as otherwise provided in subsection 2, NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS, **and section 1 of this act**, the registration and other records of a treatment facility are confidential and must not be disclosed to any person not connected with the treatment facility without the consent of the patient.

2. The provisions of subsection 1 do not restrict the use of a patient's records for the purpose of research into the causes and treatment of alcoholism if such information is ~~not~~ :

(a) *Not* published in a way that discloses the patient's name or other identifying information ~~{ }~~; *or*

(b) *Disclosed pursuant to section 1 of this act.*

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. NRS 396.525 is hereby amended to read as follows:

396.525 1. Except as otherwise provided in subsection 2 ~~{ }~~ **and section 1 of this act**, the records of the genetics program concerning the clients and families of clients are confidential.

2. The genetics program may share information in its possession with the University of Nevada School of Medicine and the Health Division of the Department of Health and Human Services, if the confidentiality of the information is otherwise maintained in accordance with the terms and conditions required by law.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~{Reports}~~ **Except as otherwise provided in section 1 of this act, reports** made pursuant to this chapter, as well as all records concerning these reports and investigations thereof, are confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases data or information concerning such reports and investigations, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized or required pursuant to NRS 432B.290; ~~{or}~~

(c) As otherwise required pursuant to NRS 432B.513 ~~{ }~~; *or*

(d) **As otherwise authorized or required pursuant to section 1 of this act,** ~~↪~~ is guilty of a misdemeanor.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 433.332 is hereby amended to read as follows:

433.332 1. If a patient in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. §§ ~~{290dd-3 and 290ee-3,}~~ **290dd, 290dd-1 or 290dd-2 or section 1 of this act**, the division facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records.

2. As used in this section, "medical records" includes a medical history of the patient, a summary of the current physical condition of the patient and

a discharge summary which contains the information necessary for the proper treatment of the patient.

Sec. 24. NRS 433.482 is hereby amended to read as follows:

433.482 Each client admitted for evaluation, treatment or training to a facility has the following personal rights, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the client by such additional means as prescribed by regulation:

1. To wear his own clothing, to keep and use his own personal possessions, including his toilet articles, unless those articles may be used to endanger his or others' lives, and to keep and be allowed to spend a reasonable sum of his own money for expenses and small purchases.

2. To have access to individual space for storage for his private use.

3. To see visitors each day.

4. To have reasonable access to telephones, both to make and receive confidential calls.

5. To have ready access to materials for writing letters, including stamps, and to mail and receive unopened correspondence, but:

- (a) For the purposes of this subsection, packages are not considered as correspondence; and

- (b) Correspondence identified as containing a check payable to a client may be subject to control and safekeeping by the administrative officer of that facility or his designee, so long as the client's record of treatment documents the action.

6. To have reasonable access to an interpreter if the client does not speak English or is hearing impaired.

7. To designate a person who must be kept informed by the facility of the client's medical and mental condition, if the client signs a release allowing the facility to provide such information to the person.

8. ~~{To}~~ ***Except as otherwise provided in section 1 of this act, to*** have access to his medical records denied to any person other than:

- (a) A member of the staff of the facility or related medical personnel, as appropriate;

- (b) A person who obtains a waiver by the client of his right to keep the medical records confidential; or

- (c) A person who obtains a court order authorizing the access.

9. Other personal rights as specified by regulation of the Commission.

Sec. 25. NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each client must be diligently maintained by any division facility or private institution or facility offering mental health services. The record must include information pertaining to the client's admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) *If the release is authorized or required pursuant to section 1 of this act.*

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the client, his parent, guardian or attorney.

~~[(b)]~~ (c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

~~[(c)]~~ (d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ ~~6041~~ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the client.

~~[(d)]~~ (e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual clients.

~~[(e)]~~ (f) To the extent necessary for a client to make a claim, or for a claim to be made on behalf of a client for aid, insurance or medical assistance to which he may be entitled, information from the records may be released with the written authorization of the client or his guardian.

~~[(f)]~~ (g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ ~~6041~~ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The client is a client of that office and he or his legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a client was received by the office or there is probable cause to believe that the client has been abused or neglected and the client:

(I) Is unable to authorize the release of the record because of his mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

~~[(g)]~~ (h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, "client" includes any person who seeks, on his own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, or from treatment to competency in a private institution or facility offering mental health services.

Sec. 26. (Deleted by amendment.)

Sec. 27. NRS 629.161 is hereby amended to read as follows:

629.161 1. It is unlawful to retain genetic information that identifies a person, without first obtaining the informed consent of the person or the

person's legal guardian pursuant to NRS 629.181, unless retention of the genetic information is:

(a) **Authorized or required pursuant to section 1 of this act;**

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

~~[(b)]~~ (c) Authorized pursuant to an order of a court of competent jurisdiction; or

~~[(c)]~~ (d) Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person.

2. A person who has authorized another person to retain his genetic information may request that person to destroy the genetic information. If so requested, the person who retains that genetic information shall destroy the information, unless retention of that information is:

(a) **Authorized or required pursuant to section 1 of this act;**

(b) Necessary to conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

~~[(b)]~~ (c) Authorized by an order of a court of competent jurisdiction;

~~[(c)]~~ (d) Necessary for a medical facility as defined in NRS 449.0151 to maintain a medical record of the person; or

~~[(d)]~~ (e) Authorized or required by state or federal law or regulation.

3. Except as otherwise provided in subsection 4 or by federal law or regulation, a person who obtains the genetic information of a person for use in a study shall destroy that information upon:

(a) The completion of the study; **or**

(b) The withdrawal of the person from the study,

↪ whichever occurs first.

4. A person whose genetic information is used in a study may authorize the person who conducts the study to retain that genetic information after the study is completed or upon his withdrawal from the study.

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 639.238 is hereby amended to read as follows:

639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 639.2357, **and section 1 of this act**, a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:

(a) The patient for whom the original prescription was issued;

(b) The practitioner who originally issued the prescription;

(c) A practitioner who is then treating the patient;

(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;

(e) An agency of State Government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier, on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information;

- (g) Any person authorized by an order of a district court;
 - (h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;
 - (i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:
 - (1) Misusing prescriptions to obtain excessive amounts of drugs; or
 - (2) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person; ~~for~~
 - (j) A peace officer employed by a local government for the limited purpose of and to the extent necessary:
 - (1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or
 - (2) To carry out a search warrant or subpoena issued pursuant to a court order ~~for~~; **or**
 - (k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:
 - (1) Identifying a deceased person;
 - (2) Determining a cause of death; or
 - (3) Performing other duties authorized by law.
2. Any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is issued to a county coroner, medical examiner or investigator employed by an office of a county coroner must be limited to a copy of the prescription filled or on file for:
- (a) The person whose name is on the container of the controlled substance or dangerous drug that is found on or near the body of a deceased person; or
 - (b) The deceased person whose cause of death is being determined.
3. Except as otherwise provided in NRS 639.2357, any copy of a prescription for a controlled substance or a dangerous drug as defined in chapter 454 of NRS, issued to a person authorized by this section to receive such a copy, must contain all of the information appearing on the original prescription and be clearly marked on its face "Copy, Not Refillable—For Reference Purposes Only." The copy must bear the name or initials of the registered pharmacist who prepared the copy.
4. If a copy of a prescription for any controlled substance or a dangerous drug as defined in chapter 454 of NRS is furnished to the customer, the original prescription must be voided and notations made thereon showing the date and the name of the person to whom the copy was furnished.
5. As used in this section, "peace officer" does not include:
- (a) A member of the Police Department of the Nevada System of Higher Education.
 - (b) A school police officer who is appointed or employed pursuant to NRS 391.100.

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Assemblywoman Koivisto moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 536.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 424, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 734 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 14, which is attached to and hereby made a part of this report.

SHEILA LESLIE
SUSAN GERHARDT
GARN MABEY

Assembly Conference Committee

JOSEPH HECK
MAGGIE CARLTON
WARREN HARDY

Senate Conference Committee

Conference Amendment No. CA14.

SPONSORS: ASSEMBLYMEN Leslie , GERHARDT AND ARBERRY

SPONSORS: SENATORS Heck , CARLTON AND HORSFORD

AN ACT relating to professions; providing for the licensing and regulation of clinical professional counselors, clinical professional counselor interns , **marriage and family therapist interns**, and clinical alcohol and drug abuse counselors; revising the name and expanding the membership of the Board of Examiners for Marriage and Family Therapists; providing a privilege against the disclosure of certain confidential communications between a clinical professional counselor and his client and certain other persons; requiring reimbursement for services provided by a licensed clinical professional counselor or licensed clinical alcohol and drug abuse counselor under certain policies of health insurance; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6 and 7 of this bill provide definitions for the terms "clinical professional counselor" and "practice of clinical professional counseling." Sections 8 and 99.5 of this bill establish the requirements for a license to practice as a clinical professional counselor. Sections 8.2-9 of this bill set forth requirements governing clinical professional counselor interns. Sections 10-14, 18-21 and 23.5-32 of this bill include **marriage and family therapist interns**, clinical professional counselors and clinical professional counselor interns under the regulation of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. Section 14.5 of this bill revises the definition of "practice of marriage and family therapy." **Sections 9.2-9.9 of this bill set forth requirements governing marriage and family therapist interns.** Sections 15 and 15.5 of this bill increase the number of members of the Board of Examiners for Marriage and Family

Therapists and Clinical Professional Counselors. Sections 16 and 16.5 of this bill require that the additional members of the Board be licensed clinical professional counselors. Section 29 of this bill prohibits a person from engaging in the practice of clinical professional counseling without a license. Section 35 of this bill provides a definition of “clinical practice of counseling alcohol and drug abusers.” Section 36 of this bill establishes the requirements for the issuance of a license as a clinical alcohol and drug abuse counselor. Section 37 of this bill establishes the requirements for certification as a clinical alcohol and drug abuse counselor intern. Section 38 of this bill establishes the scope of practice of a clinical alcohol and drug abuse counselor and the duration of his license. Section 54 of this bill clarifies the scope of practice of an alcohol and drug abuse counselor. Sections 63-66 of this bill provide a privilege against the disclosure of certain confidential communications between a clinical professional counselor and his client and certain other persons. Sections 2, 71, 76, 77 and 86 of this bill include a clinical professional counselor in the definition of the term “provider of health care.” Sections 72, 73 and 78 of this bill require a clinical professional counselor and a clinical alcohol and drug abuse counselor to report to certain governmental agencies, including law enforcement agencies, cases of known or suspected abuse or neglect of an older person, vulnerable person or a child. Sections 79, 81 and 83 of this bill include a clinical professional counselor in the definition of the term “person professionally qualified in the field of psychiatric mental health.” Sections 92-99 of this bill require reimbursement for services provided by a licensed clinical professional counselor or clinical alcohol and drug abuse counselor under certain policies of health insurance.

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

Section 1. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

- (a) State Contractors’ Board.
- (b) State Board of Professional Engineers and Land Surveyors.
- (c) Nevada State Board of Accountancy.
- (d) Board of Medical Examiners.
- (e) Board of Dental Examiners of Nevada.
- (f) State Board of Nursing.
- (g) Chiropractic Physicians’ Board of Nevada.
- (h) Nevada State Board of Optometry.
- (i) State Board of Pharmacy.
- (j) Board of Examiners for Marriage and Family Therapists [.] **and Clinical Professional Counselors.**
- (k) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.

(l) Commission of Appraisers of Real Estate.

(m) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.

(n) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.

(o) State Board of Health and Health Division of the Department of Health and Human Services.

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 2. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, **licensed clinical professional counselor**, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 3. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor**, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 4. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A person who is licensed to practice dentistry in this State;

3. A person who is licensed as a marriage and family therapist **or marriage and family therapist intern** pursuant to chapter 641A of NRS;

4. ***A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;***

5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;

~~{5.}~~ 6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~{6.}~~ 7. A person who is licensed ***as a clinical alcohol and drug abuse counselor, licensed*** or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, ***a clinical alcohol and drug abuse counselor intern***, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS; or

~~{7.}~~ 8. Any clergyman,
 ➤ if such a person does not commit an act described in NRS 641.440 or represent himself as a psychologist.

Sec. 5. Chapter 641A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{6}~~ 5.5 to 9, inclusive, of this act.

Sec. 5.5. "Approved supervisor" means a licensed marriage and family therapist or licensed clinical professional counselor who is approved by the Board to supervise a person who is acquiring the supervised experience in marriage and family therapy or clinical professional counseling, as appropriate, that is required for licensure as a marriage and family therapist or clinical professional counselor pursuant to this chapter.

Sec. 6. "Clinical professional counselor" means a person who describes himself or his services to the public by any title or description which incorporates the term "clinical professional counselor" and under such a title offers to provide or provides services to any person.

Sec. 7. "Practice of clinical professional counseling" means the provision of treatment, assessment and counseling, or equivalent activities, to a person or group of persons to achieve mental, emotional, physical ~~and social and moral~~ and social development and adjustment. The term includes counseling interventions to prevent, diagnose and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health. The term does not include:

1. The practice of psychology or medicine;
2. The assessment or treatment of couples or families;
3. The prescription of drugs or electroconvulsive therapy;
4. The treatment of physical disease, injury or deformity;
5. The diagnosis or treatment of a psychotic disorder;
6. The use of projective techniques in the assessment of personality;
7. The use of psychological, neuropsychological or clinical tests designed to identify or classify abnormal or pathological human behavior;
8. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; or
9. The use of psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Sec. 8. Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;
4. Has:
 - (a) Completed his residency training in psychiatry from an accredited institution approved by the Board;
 - (b) A graduate degree from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or
 - (c) An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling

which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling;

(b) At least 3,000 hours of supervised experience in professional counseling which includes, without limitation:

(1) At least 1,500 hours of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) Either:

(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or

(2) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

Sec. 8.2. 1. A person who wishes to obtain the supervised experience that is required for licensure as a clinical professional counselor pursuant to this chapter must obtain a license as a clinical professional counselor intern before beginning his supervised experience.

2. An applicant for a license as a clinical professional counselor intern must furnish evidence satisfactory to the Board that he:

(a) Is at least 21 years of age;

(b) Is of good moral character;

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

(d) Possesses a graduate degree in counseling from an accredited college or university approved by the Board which required the completion of a practicum or internship; and

(e) Has entered into a supervision agreement with an approved supervisor.

Sec. 8.4. A license as a clinical professional counselor intern:

1. Is valid for ~~five~~ 3 years and may be renewed not more than once; and

2. Expires upon:

(a) The termination of the supervision agreement with an approved supervisor;

(b) A change in the approved supervisor; or

(c) The issuance of a license as a clinical professional counselor to the holder of the license as a clinical professional counselor intern.

Sec. 8.6. The holder of a license as a clinical professional counselor intern:

1. May engage in the practice of clinical professional counseling only for the purposes of obtaining the supervised experience required by subsection 5 of section 8 of this act for a license to practice as a clinical professional counselor; and

2. Shall not engage in the practice of clinical professional counseling independently.

Sec. 8.8. 1. The holder of a license as a clinical professional counselor intern shall, before providing any counseling or other therapeutic service to a client:

(a) Inform the client that he holds a license as a clinical professional counselor intern and is practicing under the supervision of an approved supervisor; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of subsection 1 constitutes a ground for initiating disciplinary action or denying licensure.

Sec. 9. 1. The holder of a license as a clinical professional counselor intern who makes a change in a supervision agreement or enters into a new supervision agreement shall notify the Board within 30 days after the date of the change or new agreement.

2. Each party to a supervision agreement shall, upon its termination, notify the Board in writing not more than 5 days after the date of termination.

Sec. 9.2. 1. A person who wishes to obtain the supervised experience that is required for licensure as a marriage and family therapist pursuant to this chapter must obtain a license as a marriage and family therapist intern before beginning his supervised experience.

2. An applicant for a license as a marriage and family therapist intern must furnish evidence satisfactory to the Board that he:

(a) Is at least 21 years of age;

(b) Is of good moral character;

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

(d) Possesses a graduate degree in marriage and family therapy, psychology or social work from an accredited institution approved by the Board or has completed other education and training which is deemed equivalent by the Board; and

(e) Has entered into a supervision agreement with an approved supervisor.

Sec. 9.4. A license as a marriage and family therapist intern:

1. Is valid for 3 years and may be renewed not more than once; and

2. Expires upon:

(a) The termination of the supervision agreement with an approved supervisor;

(b) A change in the approved supervisor; or

(c) The issuance of a license as a marriage and family therapist to the holder of the license as a marriage and family therapist intern.

Sec. 9.6. The holder of a license as a marriage and family therapist intern:

1. May engage in the practice of marriage and family therapy only for the purposes of obtaining the supervised experience required by subsection 5 of NRS 641A.220 for a license to practice as a marriage and family therapist; and

2. Shall not engage in the practice of marriage and family therapy independently.

Sec. 9.8. 1. The holder of a license as a marriage and family therapist intern shall, before providing any counseling or other therapeutic service to a client:

(a) Inform the client that he holds a license as a marriage and family therapist intern and is practicing under the supervision of an approved supervisor; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of subsection 1 constitutes a ground for initiating disciplinary action or denying licensure.

Sec. 9.9. 1. The holder of a license as a marriage and family therapist intern who makes a change in a supervision agreement or enters into a new supervision agreement shall notify the Board within 30 days after the date of the change or new agreement.

2. Each party to a supervision agreement shall, upon its termination, notify the Board in writing not more than 5 days after the date of termination.

Sec. 10. NRS 641A.010 is hereby amended to read as follows:

641A.010 The practice of marriage and family therapy ~~is~~ **and the practice of clinical professional counseling are** hereby declared ~~a learned profession,~~ **to be learned professions** profoundly affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulation by the State.

Sec. 11. NRS 641A.020 is hereby amended to read as follows:

641A.020 As used in this chapter, unless the context otherwise requires, **the words and terms defined in NRS 641A.030 to 641A.080, inclusive, and sections 5.5, 6 and 7 of this act** have the meanings ~~assigned~~ **ascribed** to them in ~~such~~ **those** sections.

Sec. 12. NRS 641A.030 is hereby amended to read as follows:

641A.030 "Board" means the Board of Examiners for Marriage and Family Therapists ~~and~~ **Clinical Professional Counselors.**

Sec. 13. NRS 641A.040 is hereby amended to read as follows:

641A.040 "License" means a license issued by the Board pursuant to this chapter to practice as a marriage and family therapist ~~or~~ **, a marriage and family therapist intern, a clinical professional counselor or a clinical professional counselor intern.**

Sec. 14. NRS 641A.050 is hereby amended to read as follows:

641A.050 "Licensee" means a person licensed as a marriage and family therapist, ***a marriage and family therapist intern, a clinical professional counselor or a clinical professional counselor intern*** by the Board.

Sec. 14.5. NRS 641A.080 is hereby amended to read as follows:

641A.080 1. "Practice of marriage and family therapy" means the ~~[application of established principles of learning, motivation, perception, thinking, emotional, marital and sexual relationships and adjustments by persons trained in psychology, social work, psychiatry or marriage and family therapy. The application of these principles includes:~~

~~(a) Diagnosis, therapy, treatment, counseling and the use of psychotherapeutic measures with persons or groups with adjustment problems in the areas of marriage, family or personal relationships.~~

~~(b) Conducting research concerning problems related to marital relationships and human behavior.~~

~~(c) Consultation with other persons engaged in the practice of marriage and family therapy if the consultation is determined by the Board to include the application of any of these principles.]~~ ***diagnosis and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of interpersonal relationships, including, without limitation, marital and family systems, and involves the professional application or use of psychotherapy, counseling, evaluation, assessment instruments, consultation, treatment planning, supervision, research and prevention of mental and emotional disorders. The term includes, without limitation, the rendering of professional marital and family therapy services to a person, couple, family or family group or other group of persons.***

2. The term does not include:

(a) The diagnosis or treatment of a psychotic disorder; or

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.

Sec. 15. NRS 641A.090 is hereby amended to read as follows:

641A.090 The Board of Examiners for Marriage and Family Therapists ~~[,]~~ ***and Clinical Professional Counselors***, consisting of ~~[six]~~ ***eight*** members appointed by the Governor, is hereby created.

Sec. 15.5. NRS 641A.090 is hereby amended to read as follows:

641A.090 The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, consisting of ~~[eight]~~ ***nine*** members appointed by the Governor, is hereby created.

Sec. 16. NRS 641A.100 is hereby amended to read as follows:

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; ~~[and]~~

(b) *Two members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and*

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist; ~~{or}~~

(2) *A clinical professional counselor; or*

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist ~~{or}~~ *or clinical professional counselor.*

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

Sec. 16.5. NRS 641A.100 is hereby amended to read as follows:

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist;

(b) ~~{Two}~~ **Three** members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist;

(2) A clinical professional counselor; or

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist or clinical professional counselor.

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

Sec. 17. NRS 641A.130 is hereby amended to read as follows:

641A.130 The Board shall meet at least once every 6 months at a time and place fixed by the Board. The Board shall hold a special meeting upon a call of the President or upon a request by a majority of the members. ~~{Three}~~ **Five** members of the Board constitute a quorum.

Sec. 18. NRS 641A.160 is hereby amended to read as follows:

641A.160 The Board shall adopt regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensing of applicants, the granting, refusal, revocation or suspension of licenses , and the practice of marriage and family therapy *and the practice of*

clinical professional counseling as ~~[it applies]~~ **those practices apply** to this chapter.

Sec. 19. NRS 641A.180 is hereby amended to read as follows:

641A.180 The Board shall:

1. Adopt regulations specifying the criteria for courses of study that are sufficient for the purposes of licensing; and

2. Determine which schools in and out of this State have courses of study for the preparation of marriage and family therapy **and clinical professional counseling** which are sufficient for the purposes of licensing. Published lists of educational institutions accredited by recognized accrediting organizations may be used in the evaluation of ~~[such]~~ **those** courses of study.

Sec. 20. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~[as a marriage and family therapist]~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~[as a marriage and family therapist]~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license ~~[as a marriage and family therapist]~~ may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 21. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license ~~[as a marriage~~

~~and family therapist]~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license ~~for a marriage and family therapist]~~ may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 22. NRS 641A.220 is hereby amended to read as follows:

641A.220 Each applicant ***for a license to practice as a marriage and family therapist*** must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;

2. Is of good moral character;

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has completed his residency training in psychiatry from an accredited institution approved by the Board, has a graduate degree in marriage and family therapy, psychology or social work from an accredited institution approved by the Board or has completed other education and training which is deemed equivalent by the Board;

5. Has ~~at least 1 year]~~ :

(a) ***At least 2 years*** of postgraduate experience in marriage and family therapy ~~[deemed satisfactory to the Board;]~~ ; and

(b) ***At least 3,000 hours of supervised experience in marriage and family therapy, of which at least 1,500 hours must consist of direct contact with clients; and***

6. Holds an undergraduate degree from an accredited institution approved by the Board.

Sec. 23. NRS 641A.230 is hereby amended to read as follows:

641A.230 1. Except as otherwise provided in subsection 2, each qualified applicant for a license **to practice as a marriage and family therapist** must ~~be given~~ **pass** a written examination **given** by the Board on his knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine. ~~[A grade of 70 percent is a passing grade.]~~

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the ~~[American]~~ Association ~~[for Marriage]~~ **of Marital** and Family Therapy **Regulatory Boards** in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine **applicants** in whatever applied or theoretical fields it deems appropriate.

Sec. 23.5. NRS 641A.235 is hereby amended to read as follows:

641A.235 1. The Board shall issue a license to an applicant who meets the requirements imposed pursuant to this chapter.

2. ~~[A]~~ **Except as otherwise provided in ~~[section]~~ sections 8.4 and 9.4 of this act,** a license expires on January 1 of each year.

3. The Board may prorate the fee for a license which expires less than 6 months after the date of issuance.

Sec. 24. NRS 641A.265 is hereby amended to read as follows:

641A.265 The Board may waive all or part of the requirement of continuing education in a particular year if the marriage and family therapist **or clinical professional counselor** was prevented from fulfilling the requirement ~~[by]~~ **because of** circumstances beyond his control.

Sec. 25. NRS 641A.285 is hereby amended to read as follows:

641A.285 1. Upon written request to the Board and payment of the fee prescribed by the Board, a licensee in good standing may have his name and license transferred to an inactive list for a period not to exceed 3 continuous years. A licensee shall not practice marriage and family therapy **or clinical professional counseling** during the time his license is inactive. If an inactive licensee desires to resume the practice of marriage and family therapy ~~[r]~~ **or clinical professional counseling,** the Board must reactivate the license upon the:

- (a) Completion of an application for reactivation;
- (b) Payment of the fee for renewal of the license; and
- (c) Demonstration, if deemed necessary by the Board, that the licensee is then qualified and competent to practice.

➤ Except as otherwise provided in subsection 2, the licensee is not required to pay the delinquency fee or the renewal fee for any year while the license was inactive.

2. Any license that remains inactive for a period which exceeds 3 continuous years is deemed:

- (a) To effect a revocation for the purposes of NRS 641A.270.

(b) To have lapsed at the beginning of that period for the purposes of NRS 641A.280.

3. The Board may adopt such regulations as it deems necessary to carry out the provisions of this section, including without limitation, regulations governing the renewal of inactive licenses and any requirement of continuing education for inactive licensees.

Sec. 26. NRS 641A.310 is hereby amended to read as follows:

641A.310 The Board may refuse to grant a license or may suspend or revoke a license for any of the following reasons:

1. Conviction of a felony relating to the practice of marriage and family therapy **or clinical professional counseling** or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

2. Habitual drunkenness or addiction to the use of a controlled substance.

3. Impersonating a licensed marriage and family therapist, **marriage and family therapist intern**, ~~or clinical professional counselor~~ or ~~or clinical professional counselor intern~~ or allowing another person to use his license.

4. Using fraud or deception in applying for a license or in passing the examination provided for in this chapter.

5. Rendering or offering to render services outside the area of his training, experience or competence.

6. Committing unethical practices contrary to the interest of the public as determined by the Board.

7. Unprofessional conduct as determined by the Board.

8. Negligence, fraud or deception in connection with services he is licensed to provide pursuant to this chapter.

Sec. 27. NRS 641A.313 is hereby amended to read as follows:

641A.313 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license, ~~as a marriage and family therapist,~~ the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license ~~as a marriage and family therapist~~ that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 28. NRS 641A.315 is hereby amended to read as follows:

641A.315 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any marriage and family therapist,

marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern has raised a reasonable question as to his competence to practice therapy **or clinical professional counseling** with reasonable skill and safety, it may order the marriage and family therapist , **marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** to undergo:

(a) A mental or physical examination administered by an appropriately licensed provider of health care;

(b) An examination testing his competence to practice therapy ~~[-]~~ **or clinical professional counseling**; or

(c) Any other examination designated by the Board,

↪ to assist the Board or committee in determining the fitness of the marriage and family therapist **or marriage and family therapist intern** to practice therapy ~~[-]~~ **or the clinical professional counselor or clinical professional counselor intern to practice clinical professional counseling**.

2. For the purposes of this section:

(a) Every **marriage and family therapist , marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** who applies for a license or who is licensed pursuant to this chapter is deemed to have given his consent to submit to any examination ordered pursuant to subsection 1 when ordered to do so in writing by the Board.

(b) The testimony and reports of the examining provider of health care are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a **marriage and family therapist , marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** licensed pursuant to this chapter to submit to an examination when ordered to do so as provided in this section constitutes an admission of the charges against him.

4. The Board may require the marriage and family therapist , **marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** to pay the cost of the examination.

Sec. 29. NRS 641A.410 is hereby amended to read as follows:

641A.410 1. It is unlawful for any person to engage in the practice of marriage and family therapy **or the practice of clinical professional counseling** unless he is licensed under the provisions of this chapter.

2. The provisions of this chapter do not:

(a) Prevent any licensed physician, licensed nurse, licensed psychologist, certified alcohol or drug abuse counselor or other person licensed or certified by the State from carrying out the functions permitted by his respective license or certification if the person does not hold himself out to the public by any title and description of service likely to cause confusion with the titles and descriptions of service set forth in this chapter.

(b) Apply to any activity or service of a student who is obtaining a professional education as recognized by the Board if the activity or service

constitutes a part of the student's supervised course of study, the activities are supervised by a licensee under this chapter and the student is designated by the title "intern in marriage and family therapy" or any other title which clearly indicates his status as a student.

(c) Apply to any activity or service of an intern while he is obtaining the experience required for licensing as a marriage and family therapist ~~[-]~~ **or a clinical professional counselor.**

(d) Apply to a licensed or ordained minister in good standing with his denomination whose duty is primarily to serve his congregation and whose practice of marriage and family therapy **or clinical professional counseling** is incidental to his other duties if he does not hold himself out to the public by any title or description of service that is likely to cause confusion with the titles and descriptions or services set forth in this chapter.

Sec. 30. NRS 641A.430 is hereby amended to read as follows:

641A.430 It is unlawful for any person, other than a person licensed under this chapter, to employ or use the term "marriage and family counselor," "marriage and family therapist," **"marriage and family therapist intern,"** "marital adviser," "marital therapist," ~~[-]~~ "marital consultant," **"clinical professional counselor," "clinical professional counselor intern"** or any similar title in connection with his work, or in any way imply that he is licensed by the Board, unless he is licensed under this chapter.

Sec. 31. NRS 641A.440 is hereby amended to read as follows:

641A.440 Any person who violates any of the provisions of this chapter or, having had his license suspended or revoked, continues to represent himself as a marriage and family therapist, **marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$5,000, or by both fine and imprisonment. Each violation is a separate offense.

Sec. 32. NRS 641A.450 is hereby amended to read as follows:

641A.450 A violation of this chapter by a person unlawfully representing himself as a marriage and family therapist, **marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern** may be enjoined by a district court on petition by the Board. In any such proceeding it is not necessary to show that any person is individually injured. If the respondent is found guilty of misrepresenting himself as a marriage and family therapist, **marriage and family therapist intern, clinical professional counselor or clinical professional counselor intern**, the court shall enjoin him from making such a representation until he has been licensed. Procedure in ~~such~~ **those** cases is the same as in any other application for an injunction. The remedy by injunction is in addition to criminal prosecution and punishment.

Sec. 33. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;
4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
5. **A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;**
6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;
- ~~{6.}~~ 7. A person who is licensed **as a clinical alcohol and drug abuse counselor, licensed** or certified as an alcohol and drug abuse counselor, or certified as **a clinical alcohol and drug abuse counselor intern**, an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;
- ~~{7.}~~ 8. Any clergyman;
- ~~{8.}~~ 9. A county welfare director;
- ~~{9.}~~ 10. Any person who may engage in social work or clinical social work in his regular governmental employment but does not hold himself out to the public as a social worker; or
- ~~{10.}~~ 11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates his training status.

Sec. 34. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{31 to 33, inclusive,}~~ 35 to 38, inclusive, of this act.

Sec. 35. 1. **"Clinical practice of counseling alcohol and drug abusers" means:**

(a) **The application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to chapter 453 of NRS; and**

(b) **The identification, evaluation, ~~and~~ and diagnosis of and treatment ~~of~~ for a mental illness when a mentally ill person ~~who~~ is also an alcoholic or abuser of drugs.**

2. **The term does not include:**

(a) **The diagnosis or treatment of a psychotic disorder; or**

(b) **The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude ~~and~~ and interests.** ~~for addictions.~~

Sec. 36. 1. **The Board shall issue a license as a clinical alcohol and drug abuse counselor to:**

(a) **A person who:**

- (1) Is not less than 21 years of age;*
- (2) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*
- (3) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board that includes comprehensive course work in clinical mental health, including the diagnosis of mental health disorders;*
- (4) Has completed a program approved by the Board consisting of at least 2,000 hours of supervised, postgraduate counseling of alcohol and drug abusers;*
- (5) Has completed a program that:*
 - (I) Is approved by the Board; and*
 - (II) Consists of at least 2,000 hours of postgraduate counseling of persons who are mentally ill and who are alcohol and drug abusers that is supervised by a person professionally qualified in the field of psychiatric mental health and who is approved by the Board;*
- (6) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;*
- (7) Pays the fees required pursuant to NRS 641C.470; and*
- (8) Submits all information required to complete an application for a license.*

(b) A person who:

- (1) Is not less than 21 years of age;*
- (2) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*
- (3) Is:*
 - (I) Licensed as a clinical social worker pursuant to chapter 641B of NRS;*
 - (II) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; or*
 - (III) A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;*
- (4) Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;*
- (5) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;*
- (6) Pays the fees required pursuant to NRS 641C.470; and*
- (7) Submits all the information required to complete an application for a license.*

2. As used in this section, "person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433.209.

Sec. 37. 1. The Board shall issue a certificate as a clinical alcohol and drug abuse counselor intern to a person who:

- (a) *Is not less than 21 years of age;*
- (b) *Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*
- (c) *Pays the fees required pursuant to NRS 641C.470;*
- (d) *Submits proof to the Board that he has received a master's degree or doctoral degree in a field of social science approved by the Board that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders; and*
- (e) *Submits all the information required to complete an application for a certificate.*

2. *A certificate as a clinical alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.*

3. *A certified clinical alcohol and drug abuse counselor intern may, under the supervision of a licensed clinical alcohol and drug abuse counselor:*

- (a) *Engage in the clinical practice of counseling alcohol and drug abusers; and*
- (b) *Diagnose or classify a person as an alcoholic or drug abuser.*

Sec. 38. 1. *A license as a clinical alcohol and drug abuse counselor is valid for 1 year and may be renewed.*

2. *A licensed clinical alcohol and drug abuse counselor may:*

- (a) *Engage in the clinical practice of counseling alcohol and drug abusers;*
- (b) *Diagnose or classify a person as an alcoholic or abuser of drugs; and*
- (c) *Supervise certified interns.*

Sec. 39. NRS 641C.010 is hereby amended to read as follows:

641C.010 The practice of counseling alcohol and drug abusers , ***the clinical practice of counseling alcohol and drug abusers*** and the practice of counseling problem gamblers are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers , ***the clinical practice of counseling alcohol and drug abusers*** and the practice of counseling problem gamblers by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in the practice of counseling alcohol and drug abusers , ***licensed or certified to engage in the clinical practice of counseling alcohol and drug abusers*** or certified to engage in the practice of counseling problem gamblers.

Sec. 40. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, ***and section 35 of this act***, have the meanings ascribed to them in those sections.

Sec. 41. NRS 641C.040 is hereby amended to read as follows:

641C.040 "Certificate" means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, ***a clinical alcohol and drug abuse counselor intern***, an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern.

Sec. 42. NRS 641C.060 is hereby amended to read as follows:

641C.060 "Certified intern" means a person who is certified as ***a clinical alcohol and drug abuse counselor intern***, an alcohol and drug abuse counselor intern or a problem gambling counselor intern pursuant to the provisions of this chapter.

Sec. 43. NRS 641C.080 is hereby amended to read as follows:

641C.080 "License" means a license issued to a person who is licensed as an alcohol and drug abuse counselor ***or a clinical alcohol and drug abuse counselor*** pursuant to the provisions of this chapter.

Sec. 44. NRS 641C.090 is hereby amended to read as follows:

641C.090 "Licensed counselor" means a person who is licensed as an alcohol and drug abuse counselor ***or a clinical alcohol and drug abuse counselor*** pursuant to the provisions of this chapter.

Sec. 45. (Deleted by amendment.)

Sec. 46. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;

4. ***A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;***

5. A marriage and family therapist ***or marriage and family therapist intern*** who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists ***and Clinical Professional Counselors*** to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers; or

~~{5.}~~ 6. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers.

Sec. 47. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) Three members who are licensed as ***clinical alcohol and drug abuse counselors or*** alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensed ***clinical alcohol and drug abuse counselor or a licensed*** or certified alcohol and drug abuse counselor or problem gambling counselor; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed ***clinical alcohol and drug abuse counselor or a licensed*** or certified alcohol and drug abuse counselor or problem gambling counselor.

3. A person may not be appointed to the Board unless he is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he performs in good faith in the execution of his duties pursuant to the provisions of this chapter.

Sec. 48. NRS 641C.220 is hereby amended to read as follows:

641C.220 The Board may enter into an interlocal agreement with an Indian tribe to provide to members of the tribe training in the practice of counseling alcohol and drug abusers ***or the clinical practice of counseling alcohol and drug abusers*** to assist those persons in obtaining licenses and certificates as alcohol and drug abuse counselors ~~[-]~~ ***and licenses as clinical alcohol and drug abuse counselors.***

Sec. 49. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. ***Each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.***

2. Each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~{2-}~~ 3. Each applicant for a certificate as a problem gambling counselor must pass a written examination concerning his knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and

any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~{3.}~~ **4.** The Board shall:

- (a) Examine applicants at least two times each year.
- (b) Establish the time and place for the examinations.
- (c) Provide such books and forms as may be necessary to conduct the examinations.

- (d) Establish, by regulation, the requirements for passing the examination.

~~{4.}~~ **5.** The Board may employ other persons to conduct the examinations.

Sec. 50. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board shall issue a license or certificate without examination to a person who holds a license or certificate as ~~{an}~~ **a clinical alcohol and drug abuse counselor or an** alcohol and drug abuse counselor in another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 51. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to an applicant if the Board determines that the applicant:

- (a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers ~~{;}~~ **or the clinical practice of counseling alcohol and drug abusers;**

- (b) Has submitted a false credential to the Board;

- (c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers ~~{;}~~ **or the clinical practice of counseling alcohol and drug abusers;**

- (d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers **or the clinical practice of counseling alcohol and drug abusers** that would be a violation of the provisions of this chapter if the act were committed in this State; or

- (e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 52. NRS 641C.320 is hereby amended to read as follows:

641C.320 1. The Board may issue ~~{a}~~ :

- (a) A provisional license **as a clinical alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a**

license as a clinical alcohol and drug abuse counselor and is otherwise eligible for that license pursuant to section 36 of this act; or

(b) A provisional license or certificate as an alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license or certificate as an alcohol and drug abuse counselor and is otherwise eligible for that license or certificate pursuant to NRS 641C.350 or 641C.390.

2. A provisional license or certificate is valid for not more than 1 year and may not be renewed.

Sec. 53. NRS 641C.350 is hereby amended to read as follows:

641C.350 The Board shall issue a license as an alcohol and drug abuse counselor to:

1. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;
- (d) Has completed 4,000 hours of supervised counseling of alcohol and drug abusers;
- (e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;
- (f) Pays the fees required pursuant to NRS 641C.470; and
- (g) Submits all information required to complete an application for a license.

2. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Is:
 - (1) Licensed as a clinical social worker pursuant to chapter 641B of NRS;

(2) Licensed as a clinical professional counselor pursuant to chapter 641A of NRS;

(3) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; for

~~(3)}~~ *(4) A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university; or*

(5) Licensed as a clinical alcohol and drug abuse counselor pursuant to this chapter;

(d) Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;

(e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

- (f) Pays the fees required pursuant to NRS 641C.470; and
- (g) Submits all information required to complete an application for a license.

Sec. 54. NRS 641C.360 is hereby amended to read as follows:

641C.360 1. A license as an alcohol and drug abuse counselor is valid for 2 years and may be renewed.

2. A licensed ***alcohol and drug abuse*** counselor may:

- (a) Engage in the practice of counseling alcohol and drug abusers;
- (b) Diagnose or classify a person as an alcoholic or abuser of drugs; and
- (c) Supervise certified ***alcohol and drug abuse counselor*** interns.

3. ***A licensed alcohol and drug abuse counselor may not identify, evaluate, diagnose or treat a mental illness when a mentally ill person ~~who~~ is also an alcoholic or abuser of drugs.***

Sec. 55. NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Has a high school diploma or a general equivalency diploma;
- (d) Pays the fees required pursuant to NRS 641C.470;
- (e) Submits proof to the Board that he:

(1) Is enrolled in a program from which he will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; or

(2) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; and

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified ***alcohol and drug abuse counselor*** intern may, under the supervision of a licensed ***alcohol and drug abuse*** counselor ~~[-]~~ ***or licensed clinical alcohol and drug abuse counselor:***

- (a) Engage in the practice of counseling alcohol and drug abusers; and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 56. NRS 641C.430 is hereby amended to read as follows:

641C.430 The Board may issue a certificate as a problem gambling counselor to:

1. A person who:

- (a) Is not less than 21 years of age;

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) Has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;

(d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;

(e) Has completed at least 2,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;

(f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

(g) Presents himself when scheduled for an interview at a meeting of the Board;

(h) Pays the fees required pursuant to NRS 641C.470; and

(i) Submits all information required to complete an application for a certificate.

2. A person who:

(a) Is not less than 21 years of age;

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) Is licensed as:

(1) A clinical social worker pursuant to chapter 641B of NRS;

(2) ***A clinical professional counselor pursuant to chapter 641A of NRS;***

(3) A marriage and family therapist pursuant to chapter 641A of NRS;

~~[(3)]~~ (4) A physician pursuant to chapter 630 of NRS;

~~[(4)]~~ (5) A nurse pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;

~~[(5)]~~ (6) A psychologist pursuant to chapter 641 of NRS; ~~for~~

~~[(6)]~~ (7) An alcohol and drug abuse counselor pursuant to this chapter;

or

(8) A clinical alcohol and drug abuse counselor pursuant to this chapter;

(d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;

(e) Has completed at least 1,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;

(f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

(g) Pays the fees required pursuant to NRS 641C.470; and

(h) Submits all information required to complete an application for a certificate.

Sec. 57. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate	\$150
For the issuance of a provisional license or certificate	125
For the issuance of an initial license or certificate	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor , a license as a clinical alcohol and drug abuse counselor or a certificate as a problem gambling counselor.....	300
For the renewal of a certificate as a clinical alcohol and drug abuse counselor intern , an alcohol and drug abuse counselor intern or a problem gambling counselor intern	75
For the renewal of a delinquent license or certificate	\$75
For the restoration of an expired license or certificate.....	150
For the restoration or reinstatement of a suspended or revoked license or certificate	300
For the issuance of a license or certificate without examination	150
For an examination	150
For the approval of a course of continuing education.....	150

2. The fees charged and collected pursuant to this section are not refundable.

Sec. 58. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers , **the clinical practice of counseling alcohol and drug abusers** or the practice of counseling problem gamblers;

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

(d) Submitting a claim for payment to an insurer; or

(e) The practice of counseling alcohol and drug abusers ~~{ }~~ **or the clinical practice of counseling alcohol and drug abusers;**

3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;

4. Professional incompetence;

5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor or certified intern to engage in the practice of counseling alcohol and drug abusers ~~{ }~~ **or the clinical practice of counseling alcohol and drug abusers;**

6. Engaging in the practice of counseling alcohol and drug abusers ***or the clinical practice of counseling alcohol and drug abusers*** with an expired, suspended or revoked license or certificate; and

7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board.

Sec. 59. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers ***or the clinical practice of counseling alcohol and drug abusers*** in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor or certified intern has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

- (a) Administer a public reprimand;
- (b) Suspend his license or certificate and impose conditions for the removal of the suspension;
- (c) Revoke his license or certificate and prescribe the requirements for the reinstatement of the license or certificate;
- (d) If he is a licensed or certified counselor, require him to be supervised by another person while he engages in the practice of counseling alcohol and drug abusers ~~or~~ ***or the clinical practice of counseling alcohol and drug abusers;***
- (e) Require him to participate in treatment or counseling and pay the expenses of that treatment or counseling;
- (f) Require him to pay restitution to any person adversely affected by his acts or omissions;
- (g) Impose a fine of not more than \$5,000; or
- (h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If his license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor or certified intern may apply to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of his revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

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

Sec. 60. NRS 641C.900 is hereby amended to read as follows:

641C.900 1. Except as otherwise provided in subsection 2, a person shall not engage in the practice of counseling alcohol and drug abusers, ***the clinical practice of counseling alcohol and drug abusers*** or the practice of counseling problem gamblers unless he is a licensed counselor, certified counselor or certified intern.

2. A person may engage in the practice of counseling alcohol and drug abusers under the supervision of a licensed counselor, ***the clinical practice of counseling alcohol and drug abusers under the supervision of a clinical alcohol and drug abuse counselor*** or the practice of counseling problem gamblers under the supervision of a certified counselor for not more than 30 days if that person:

(a) Is qualified to be licensed or certified pursuant to the provisions of this chapter; and

(b) Submits an application to the Board for a license or certificate pursuant to the provisions of this chapter.

Sec. 61. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself out to a member of the general public as ***a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern***, an alcohol and drug abuse counselor, ***an*** alcohol and drug abuse counselor intern, ***a*** problem gambling counselor or ***a*** problem gambling counselor intern;

(b) Use the title ***“clinical alcohol and drug abuse counselor,” “clinical alcohol and drug abuse counselor intern,”*** “alcohol and drug abuse counselor,” “alcohol and drug abuse counselor intern,” “drug abuse counselor,” “substance abuse counselor,” “problem gambling counselor,” “problem gambling counselor intern,” “gambling counselor,” “detoxification technician” or any similar title in connection with his work; or

(c) Imply in any way that he is licensed or certified by the Board,
 ➡ unless he is licensed or certified by the Board pursuant to the provisions of this chapter or a regulation adopted pursuant to NRS 641C.500.

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

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

(b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 61.5. NRS 643.177 is hereby amended to read as follows:

643.177 **1.** Any person who owns, manages, operates or controls any barber school, or part thereof:

~~1.1~~ **(a)** Shall:

~~[(a)]~~ **(1)** Display a sign that may be easily seen upon entering the barber school on which is printed in bold letters “Work Performed Exclusively by Students”;

~~[(b)]~~ **(2)** Have at least:

~~[(1)]~~ **(I)** One instructor on the premises of the barber school at all times if the active enrollment of the school is 10 students or less;

~~[(2)]~~ **(II)** One additional instructor on the premises of the barber school for each 10 students enrolled in the school in excess of 10 students; and

~~[(3)]~~ **(III)** ~~Two~~ **Except as otherwise provided in subsection 2, have at least two** instructors available to provide instruction at all times;

~~[(c)]~~ **(3)** Not allow a student to provide barbering services to members of the general public for more than 7 hours in a day or for more than 5 days in any 7-day period;

~~[(d)]~~ **(4)** Not advertise that the barber school will charge for barbering services provided to members of the general public by students unless those barbering services are specifically advertised as services provided by students; and

~~[(e)]~~ **(5)** Comply with all other provisions of this chapter relating to barber schools.

~~[(2)]~~ **(b)** May charge for barbering services provided to a member of the general public by a student if the student performs those barbering services as part of the required course of study of the barber school.

2. An applicant for an initial license to operate a barber school may submit to the Board, on a form prescribed by the Board, a request for a waiver from the requirement that two instructors be available to provide instruction at all times pursuant to subsubparagraph (III) of subparagraph (2) of paragraph (a) of subsection 1. Upon receiving a request for a waiver pursuant to this subsection, the Board shall grant a waiver for 1 year.

Sec. 62. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 63 to 66, inclusive, of this act.

Sec. 63. ***As used in sections 63 to 66, inclusive, of this act, unless the context otherwise requires:***

1. ***“Client” means a person who consults or is interviewed by a clinical professional counselor for the purpose of diagnosis or treatment.***

2. ***“Clinical professional counselor” has the meaning ascribed to it in section 6 of this act and includes a clinical professional counselor intern.***

3. ***A communication is “confidential” if it is not intended to be disclosed to any third person other than a person:***

(a) Present during the consultation or interview to further the interest of the client;

(b) Reasonably necessary for the transmission of the communication; or

(c) Participating in the diagnosis or treatment under the direction of the clinical professional counselor, including a member of the client’s family.

Sec. 64. ***A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications among***

himself, his clinical professional counselor or any other person who is participating in the diagnosis or treatment under the direction of the clinical professional counselor.

Sec. 65. 1. *The privilege may be claimed by the client, by his guardian or conservator, or by the personal representative of a deceased client.*

2. *The person who was the clinical professional counselor may claim the privilege but only on behalf of the client. The authority of the clinical professional counselor to do so is presumed in the absence of evidence to the contrary.*

Sec. 66. *There is no privilege under section 64 or 65 of this act:*

1. *If the client communicates to the clinical professional counselor that he intends or plans to commit what the client knows or reasonably should know is a crime.*

2. *If the clinical professional counselor is required to testify in an administrative or court-related investigation or proceeding involving the welfare of his client or the minor children of his client.*

3. *For communications relevant to an issue in proceedings to hospitalize the client for mental illness, if the clinical professional counselor in the course of diagnosis or treatment has determined that the client is in need of hospitalization.*

4. *As to communications relevant to an issue of the treatment of the client in any proceeding in which the treatment is an element of a claim or defense.*

Sec. 66.5. NRS 49.246 is hereby amended to read as follows:

As used in NRS 49.246 to 49.249, inclusive, unless the context otherwise requires:

49.246 1. "Client" means a person who consults or is interviewed by a marriage and family therapist for the purpose of diagnosis or treatment.

2. A communication is "confidential" if it is not intended to be disclosed to any third person other than a person:

(a) Present during the consultation or interview to further the interest of the client;

(b) Reasonably necessary for the transmission of the communication; or

(c) Participating in the diagnosis or treatment under the direction of the marriage and family therapist, including a member of the client's family.

3. "Marriage and family therapist" has the meaning ascribed to it in NRS 641A.060 ~~¶~~ **and includes a marriage and family therapist intern.**

Sec. 67. NRS 62A.270 is hereby amended to read as follows:

62A.270 "Qualified professional" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

2. A psychologist licensed to practice in this State;

3. A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

4. A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~for~~

5. A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~[-]~~; **or**

6. **A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.**

Sec. 68. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

(a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;

(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

(a) ~~[-]~~ **A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern** who is certified, pursuant to chapter 641C of NRS, to make that classification; or

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;

(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and

(c) Is in good standing with the regulatory agency in the other state.

4. The evaluation of the child may be conducted at an evaluation center.

5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation

and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

(c) The attorney for the child, if any;

(d) The parents or guardian of the child;

(e) The district attorney; and

(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 69. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional corporation may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional corporation may own

real and personal property appropriate to its business and may invest its money in any form of real property, securities or any other type of investment.

2. A professional corporation may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; ~~and~~

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS ~~[-]; and~~

(5) Any clinical professional counselor who is licensed by this State pursuant to chapter 641A of NRS.

➡ Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional corporation may render a professional service only through its officers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 70. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~for~~

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~176~~; **or**

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 71. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;
(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, an osteopathic physician's assistant, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist ~~and~~, **a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and** an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) ~~of this subsection~~ does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) ~~{of this subsection}~~ does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 72. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging

Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor, clinical alcohol and drug abuse counselor**, alcohol ~~for~~ **and** drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting

attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 73. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor, clinical alcohol and drug abuse counselor**, alcohol ~~for~~ **and** drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator,

manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 74. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 30 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed **as a clinical alcohol and drug abuse counselor, licensed** or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern **or a clinical alcohol and drug abuse counselor intern**, pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 75. NRS 211.340 is hereby amended to read as follows:

211.340 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.330, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated may deduct not more than 5 days from his term of imprisonment if the prisoner:

(a) Successfully completes a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the local detention facility in which he is incarcerated and a person who is licensed **as a clinical alcohol and drug abuse counselor, licensed** or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern **or a clinical alcohol and drug abuse counselor intern**, pursuant to chapter 641C of NRS; and

(b) Is awarded a certificate evidencing his successful completion of the program.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

Sec. 76. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, **licensed clinical professional counselor**, chiropractor or doctor of Oriental medicine in any form.

Sec. 77. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, ***licensed clinical professional counselor***, chiropractor or doctor of Oriental medicine in any form.

Sec. 78. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one

alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor, clinical alcohol and drug abuse counselor**, alcohol ~~for~~ **and** drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 79. NRS 433.209 is hereby amended to read as follows:

433.209 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in the State of Nevada and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division;

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS; **or**

6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 80. NRS 433.265 is hereby amended to read as follows:

433.265 Any person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor**, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

Sec. 81. NRS 433A.018 is hereby amended to read as follows:

433A.018 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;
3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this State;
 - (b) Holds a master's degree in the field of psychiatric nursing; and
 - (c) Is employed by the Division; ~~for~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS; **or**

6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 82. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, **clinical professional counselor**, social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, **clinical professional counselor**, social worker or registered nurse may:

(a) Without a warrant:

(1) Take an allegedly mentally ill person into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➡ only if the agent, officer, physician, psychologist, marriage and family therapist, **clinical professional counselor**, social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.

➡ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. ~~[As used in subsection 1, “an accredited agent of the Department” means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.]~~

5. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. As used in this section, “an accredited agent of the Department” means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

Sec. 83. NRS 433B.090 is hereby amended to read as follows:

433B.090 “Person professionally qualified in the field of psychiatric mental health” means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;
2. A psychologist licensed to practice in this State;
3. A social worker who holds a master’s degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this State;
 - (b) Holds a master’s degree in the field of psychiatric nursing; and

(c) Is employed by the Division or the Division of Mental Health and Developmental Services of the Department; ~~or~~

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ; **or**

6. **A clinical professional counselor licensed pursuant to chapter 641A of NRS.**

Sec. 84. NRS 433B.160 is hereby amended to read as follows:

433B.160 1. A person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, **clinical professional counselor**, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

2. Any psychiatrist who is employed by the Division must be certified by the American Board of Psychiatry and Neurology within 5 years after his first date of employment with the Division. The Administrator shall terminate the employment of any psychiatrist who fails to receive that certification.

Sec. 85. NRS 433B.170 is hereby amended to read as follows:

433B.170 The Administrator shall not employ any psychiatrist, psychologist, social worker, registered nurse , **clinical professional counselor** or marriage and family therapist who is unable to demonstrate proficiency in the oral and written expression of the English language.

Sec. 86. NRS 442.003 is hereby amended to read as follows:

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

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) ~~An~~ **A clinical alcohol and drug abuse counselor who is licensed, or an** alcohol and drug abuse counselor who is licensed or certified , pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or an osteopathic physician who is licensed pursuant to chapter 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) **A licensed clinical professional counselor;**

(g) A licensed social worker; or

~~(g)~~ (h) The holder of a certificate of registration as a pharmacist.

Sec. 87. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his blood or breath, may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, **or a clinical alcohol and drug abuse counselor who is licensed**, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the cost of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 88. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 1 year if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484.3792, has performed or will perform not less than one-half of the hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 89. NRS 484.37943 is hereby amended to read as follows:

484.37943 1. If an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, or if an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

2. If an offender is convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the offender is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

(a) An alcohol and drug abuse counselor who is licensed or certified , ***or a clinical alcohol and drug abuse counselor who is licensed***, pursuant to chapter 641C of NRS , to make that evaluation; or

(b) A physician who is certified to make that evaluation by the Board of Medical Examiners,

➡ who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

4. The evaluation of an offender who resides more than 30 miles from an evaluation center may be conducted outside an evaluation center by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

5. The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

6. The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician or other person in the other state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

7. An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. An evaluation center or a person who conducts an evaluation in this State outside an evaluation center shall not charge an offender more than \$100 for the evaluation.

Sec. 90. NRS 484.3796 is hereby amended to read as follows:

484.3796 1. Before sentencing an offender for a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 or a violation of NRS 484.3795 or 484.37955, the court shall require that the offender be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified , ***or a clinical alcohol and drug abuse counselor who is licensed***, pursuant to chapter 641C of NRS , to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, ***clinical alcohol and drug abuse counselor***, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 91. NRS 488.430 is hereby amended to read as follows:

488.430 1. Before sentencing a defendant pursuant to NRS 488.420, 488.425 or 488.427, the court shall require that the defendant be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified , ***or a clinical alcohol and drug abuse counselor who is licensed***, pursuant to chapter 641C of NRS , to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, ***clinical alcohol and drug abuse counselor***, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 92. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 93. NRS 689A.0483 is hereby amended to read as follows:

689A.0483 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~{}~~ ***or licensed clinical professional counselor***, the insured is entitled to reimbursement for treatment by a marriage and family therapist ***or clinical professional counselor*** who is licensed pursuant to chapter 641A of NRS.

Sec. 94. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 95. NRS 689B.0383 is hereby amended to read as follows:

689B.0383 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ **or licensed clinical professional counselor**, the insured is entitled to reimbursement for treatment by a marriage and family therapist **or clinical professional counselor** who is licensed pursuant to chapter 641A of NRS.

Sec. 96. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 97. NRS 695B.1973 is hereby amended to read as follows:

695B.1973 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ **or licensed clinical professional counselor**, the insured is entitled to reimbursement for treatment by a marriage and family therapist **or clinical professional counselor** who is licensed pursuant to chapter 641A of NRS.

Sec. 98. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.

Sec. 99. NRS 695C.1773 is hereby amended to read as follows:

695C.1773 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ **or licensed clinical professional counselor**, the insured is entitled to reimbursement for treatment by a marriage and family therapist **or clinical professional counselor** who is licensed pursuant to chapter 641A of NRS.

Sec. 99.5. Section 8 of this act is hereby amended to read as follows:

Sec. 8. Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;
2. Is of good moral character;

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has:

(a) Completed his residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling;

(b) At least 3,000 hours of supervised experience in professional counseling which includes, without limitation:

(1) At least 1,500 hours of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) ~~Either:~~

~~(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or~~

~~(2) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.~~

Sec. 99.7. Section 36 is of this act is hereby amended to read as follows:

Sec. 36. ~~(1.)~~ The Board shall issue a license as a clinical alcohol and drug abuse counselor to:

~~((a))~~ 1. A person who:

~~((1))~~ (a) Is not less than 21 years of age;

~~((2))~~ (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

~~((3))~~ (c) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board that includes comprehensive course work in clinical mental health, including the diagnosis of mental health disorders;

~~((4))~~ (d) Has completed a program approved by the Board consisting of at least 2,000 hours of supervised, postgraduate counseling of alcohol and drug abusers;

~~((5))~~ (e) Has completed a program that:

~~((1))~~ (1) Is approved by the Board; and

~~[(4)]~~ **(2)** Consists of at least 2,000 hours of postgraduate counseling of persons who are mentally ill and who are alcohol and drug abusers that is supervised by a ~~[person professionally qualified in the field of psychiatric mental health and]~~ **licensed clinical alcohol and drug abuse counselor** who is approved by the Board;

~~[(6)]~~ **(f)** Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

~~[(7)]~~ **(g)** Pays the fees required pursuant to NRS 641C.470; and

~~[(8)]~~ **(h)** Submits all information required to complete an application for a license.

~~[(9)]~~ **2.** A person who:

~~[(1)]~~ **(a)** Is not less than 21 years of age;

~~[(2)]~~ **(b)** Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

~~[(3)]~~ **(c)** Is:

~~[(4)]~~ **(1)** Licensed as a clinical social worker pursuant to chapter 641B of NRS;

~~[(4)]~~ **(2)** Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; or

~~[(4)]~~ **(3)** A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;

~~[(4)]~~ **(d)** Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;

~~[(5)]~~ **(e)** Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

~~[(6)]~~ **(f)** Pays the fees required pursuant to NRS 641C.470; and

~~[(7)]~~ **(g)** Submits all the information required to complete an application for a license.

~~¶ 2. As used in this section, "person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433.209.]~~

Sec. 100. 1. As soon as practicable on or after July 1, 2007, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors:

(a) One member whose term ends on June 30, 2010; and

(b) One member whose term ends on June 30, 2011.

2. As soon as practicable on or after July 1, 2008, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16.5 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors one member whose term ends on June 30, 2012.

3. Notwithstanding the provisions of section 16 of this act, the members described in subsection 1 that the Governor is required to appoint to the Board must have the qualifications for licensure as a clinical professional

counselor set forth in section 8 of this act at the time of their appointment to the Board.

Sec. 101. 1. This section and sections 1 to 15, inclusive, 16, 17 to 20, inclusive, 22 to 99, inclusive, and 100 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations to carry out the amendatory provisions of this act; and

(b) On July 1, 2007, for all other purposes.

2. Sections 15.5 and 16.5 of this act become effective on July 1, 2008.

3. **Section 61.5 of this act expires by limitation on June 30, 2009.**

4. Section 8 of this act expires by limitation on December 31, 2009.

~~4.4~~ 5. Section 99.5 of this act becomes effective on January 1, 2010.

6. **Section 36 of this act expires by limitation on June 30, 2013.**

7. **Section 99.7 of this act becomes effective on July 1, 2013.**

~~5.4~~ 8. Section 20 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

~~6.4~~ 9. Section 21 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

~~7.4~~ 10. Sections 21 and 27 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Assemblywoman Leslie moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 424.

Remarks by Assemblyman Leslie.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 443, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 816 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

PEGGY PIERCE
ELLEN KOIVISTO

JOSEPH HECK
STEVEN HORSFORD
BARBARA CEGAVSKE
Senate Conference Committee

Assembly Conference Committee

Conference Amendment No. CA15.

SUMMARY—Revises provisions relating to communicable diseases ~~and~~ **and food establishments.** (BDR 40-1057)

AN ACT relating to ~~communicable diseases;~~ **health care;** making various changes to provisions concerning the human immunodeficiency virus; **amending the definition of a “food handler” employed in or operating a food establishment;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 3 of this bill expresses the intent of the Legislature regarding the manner in which governmental entities and persons and entities providing services of health care should collaborate to ensure that testing for the human immunodeficiency virus and related counseling is carried out in a culturally and linguistically appropriate manner, and with due regard for the sensitivity and private nature of such information.

Section 4 of this bill requires certain providers of testing for the human immunodeficiency virus to ensure that each person who tests positive for the human immunodeficiency virus receives a counseling session. The counseling session must include information on: (1) the test result; (2) follow-up testing; (3) medical treatment; (4) methods for preventing transmission of the human immunodeficiency virus; (5) the confidentiality of the test result; and (6) appropriate testing for sexual partners of those who test positive for the human immunodeficiency virus. Section 4 also requires certain providers of testing to offer referrals for certain health care services to those who test positive for the human immunodeficiency virus.

Existing law governs food handlers employed in or operating a food establishment. (Chapter 446 of NRS) Existing law defines “food handler.” (NRS 446.030) Section 5.5 of this bill amends the definition of “food handler.”

Existing law makes discrimination against persons with certain disabilities an unlawful employment practice. (NRS 613.310-613.435) Section 6 of this bill amends the definition of “disability” to specifically include the human immunodeficiency virus.

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

Section 1. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in sections 2, 3 and 4 of this act, "provider of health care" means a physician, nurse or physician assistant licensed in accordance with state law.*

Sec. 3. *It is the intent of the Legislature that:*

1. *The State Board of Health, the Department of Health and Human Services, and all district, county and city health departments, boards of health and health officers, medical facilities and providers of health care work together in a collaborative manner to ensure that testing for the human immunodeficiency virus and related counseling services are offered in a culturally and linguistically appropriate manner.*

2. *Information pertaining to testing for the human immunodeficiency virus be reported and maintained in accordance with existing state and federal privacy laws.*

3. *Information pertaining to cases of the human immunodeficiency virus not be used for any purpose other than public health practices, including, without limitation, surveillance and epidemiology.*

Sec. 4. 1. *Counties, providers of health care and medical facilities that provide testing for the human immunodeficiency virus shall provide, or ensure the provision of, to each person who tests positive for the human immunodeficiency virus, a counseling session that is appropriate and acceptable under current medical and public health practices, as recommended by the Board.*

2. *Counseling required pursuant to this section must address, without limitation:*

- (a) The meaning of the positive result of the test;*
- (b) Any follow-up testing for the person;*
- (c) Methods for preventing the transmission of the human immunodeficiency virus;*
- (d) Medical treatment available for the person;*
- (e) The confidentiality of the result of the test; and*
- (f) Recommended testing for the human immunodeficiency virus for sexual partners of the person.*

3. *Counties, providers of health care and medical facilities that provide testing for the human immunodeficiency virus shall offer to each person who tests positive for the human immunodeficiency virus:*

(a) Appropriate referrals for future services, including, without limitation, medical care, mental health care and addiction services; or

(b) If unable to provide referrals pursuant to paragraph (a), referral to the local health authority for a subsequent referral to providers within the community for future services, including, without limitation, medical care, mental health care and addiction services.

4. *The Director of the Department of Health and Human Services may adopt regulations to carry out the provisions of this section.*

Sec. 5. (Deleted by amendment.)

Sec. 5.5. NRS 446.030 is hereby amended to read as follows:

446.030 1. "Food handler" means any person employed in or operating a food establishment, whether that person is an employer, employee or other natural person, who handles, stores, transports, prepares, manufactures, serves or sells food, or who comes in contact with eating or cooking utensils or other equipment used in the handling, preparation, manufacture, service or sale of food.

2. The term does not include a person who ~~only~~ :

(a) Only handles, stores, transports, sells or otherwise comes in contact with food that is ~~permanently sealed or~~ **sealed and** packaged for sale directly to the consumer ~~and who, if~~ :

(b) If the food is potentially hazardous food, handles the food only occasionally ~~for~~ **and** incidentally ~~outside the normal and usual course and scope of~~ **to** his responsibilities or employment ~~;~~ **, and such handling is not part of his regularly scheduled responsibilities or employment; or**

(c) Is providing services as a cashier, salesperson, stock clerk, warehouse or dockworker, delivery person or maintenance staff or providing services in a similar position with limited food-handling responsibility.

Sec. 6. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person ~~;~~ **, including, without limitation, the human immunodeficiency virus;**

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing

with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

5. "Person" includes the State of Nevada and any of its political subdivisions.

6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Assemblywoman Pierce moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 443.

Remarks by Assemblyman Pierce.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 239.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 239, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 822 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 18, which is attached to and hereby made a part of this report.

DEBBIE SMITH
MOISES DENIS
LYNN STEWART

Assembly Conference Committee

BARBARA CEGAVSKE
MIKE MCGINNESS
JOYCE WOODHOUSE

Senate Conference Committee

Conference Amendment No. CA18.

AN ACT relating to education; creating the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State; providing for the organization, powers and duties of the Council; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the P-16 Advisory Council to assist in the coordination between elementary, secondary and higher education in this State.

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

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 9 inclusive, of this act.

Sec. 2. *As used in this chapter, 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. *"Council" means the P-16 Advisory Council created by section 6 of this act.*

Sec. 4. *"System" means the Nevada System of Higher Education.*

Sec. 5. *The Legislature hereby finds and declares that:*

1. *The Board of Regents of the University of Nevada was created by the Nevada Constitution and empowered to control and manage the affairs of the Nevada System of Higher Education.*

2. *Matters relating to education are vitally important to the future of the State of Nevada, its economy and the general welfare of its residents. In light of the growing enrollments in Nevada's system of public elementary and secondary education and Nevada's system of public higher education, it is important that the Nevada Legislature, the Board of Regents, the State Board and the Executive Branch of the State Government work together as partners in developing a needed public agenda to advance education in this State.*

3. *The development of an agenda to advance education should be carried out with a view toward seeking input from all parties who have a stake in the advancement of education in this State.*

4. *Coordination between elementary, secondary and higher education must be strengthened to ensure that pupils in the 12th grade are prepared adequately to make the transition from secondary education to higher education or to careers. To this end, a body should be established to coordinate education from the level of preschool through the completion of a bachelor's degree, to be known as the P-16 Advisory Council.*

Sec. 6. 1. *The P-16 Advisory Council, consisting of ~~15~~ 11 voting members, is hereby created to assist in the coordination between elementary, secondary and higher education in this State. The Chancellor of the System and the Superintendent of Public Instruction serve as ex officio nonvoting members of the Council.*

2. *The Governor shall appoint ~~seven~~ five members to the Council as follows:*

(a) *One representative of higher education in this State.*

(b) *One representative of elementary and secondary education in this State.*

(c) ~~One representative of early childhood education in this State.~~

~~(d)~~ *One representative of private business in this State.*

~~(e)~~ *(d) One member who is a parent of a pupil enrolled in a public school in this State or of a student enrolled in the System. The parent must not be employed by the board of trustees of a school district, the governing body of a charter school or the System.*

(e) *One person that meets the qualifications of paragraph (a), ~~(b), (c) or (d).~~*

~~(f) One pupil enrolled in a secondary school in this State.~~

~~(g) One student enrolled in the System.]~~ **(b) or (c).**

3. The Majority Leader of the Senate and the Speaker of the Assembly shall each appoint ~~three~~ **two** members to the Council as follows:

(a) One member of the House of the Legislature that he represents.

~~(b) One member who is a parent of a pupil enrolled in a public school in this State or of a student enrolled in the System. The parent must not be employed by the board of trustees of a school district, the governing body of a charter school or the System.~~

~~(c) One member who is a:~~

~~(1) Licensed teacher employed by a school district or charter school in this State; or~~

~~(2) Teacher, instructor or professor employed by the Board of Regents of the University of Nevada.]~~ **person who meets the qualifications of paragraph (a), (b) or (c) of subsection 2.**

4. The Minority Leader of the Senate and the Minority Leader of the Assembly shall each appoint one member to the Council who is a member of the general public.

5. The members of the Council shall elect a Chairman and a Vice Chairman from among the members of the Council. After the initial term, the Chairman and Vice Chairman serve in the office for a term of 2 years beginning July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Council shall elect a member to fill the vacancy to serve for the remainder of the unexpired term of that office.

6. After the initial terms, each member of the Council serves a term of 3 years commencing on July 1 of the year of appointment. Such members may be reappointed for one additional term. A vacancy on the Council must be filled for the remainder of the unexpired term in the same manner as the original appointment. Each member of the Council continues in office until his successor is appointed.

7. Any member who is absent from two consecutive meetings of the Council without permission of the Chairman:

(a) Forfeits his office; and

(b) Must be replaced as provided in subsection 6 for the filling of a vacancy before the end of a term.

Sec. 7. 1. The Council shall meet at least once each calendar quarter and as frequently as necessary to afford the general public, representatives of governmental agencies and representatives of organizations an opportunity to present information and recommendations relating to the coordination between elementary, secondary and postsecondary education ~~and~~ **, including, without limitation, the Nevada Youth Legislative Issues Forum created by section 3 of Senate Bill No. 247 of this Session and the Advisory Council on Parental Involvement established by section 3 of Senate Bill No. 143 of this Session.**

2. *The Council shall comply with the provisions of chapter 241 of NRS.*

3. *For each day or portion of a day during which the members of the Council attend a meeting of the Council or are otherwise engaged in the business of the Council:*

(a) *The members who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207, payable from the Legislative Fund.*

(b) *The members who are appointed by the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate and the Minority Leader of the Assembly who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable from the Legislative Fund.*

(c) *The members who are appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable as other claims against the State are paid.*

4. *The Office of the Governor shall provide:*

- (a) *Administrative support;*
- (b) *Equipment; and*
- (c) *Office space,*

↪ *as is necessary for the Council to carry out its duties.*

5. *The Board of Regents of the University of Nevada and the Department shall provide technical assistance to the Council upon the request of the Chairman.*

Sec. 8. 1. *The Council shall address:*

(a) *Methods to increase the number of students who enroll in programs at the System to become teachers, including, without limitation, financial aid programs for students enrolled in those programs.*

(b) *Methods to ensure the successful transition of pupils from:*

- (1) *Elementary school to middle school;*
- (2) *Middle school to high school; and*
- (3) *High school to postsecondary education,*

↪ *including, without limitation, methods to increase parental involvement.*

(c) *Methods to ensure that the data information system for the pupils enrolled in the public schools is linked, to the extent feasible, with the data information system for the students enrolled in the System.*

(d) *Methods to ensure that the course work, standards and assessments required of pupils in secondary schools is aligned with the workload expected of students at the postsecondary level.*

(e) *Methods to ensure collaboration among the business community, members of the academic community and political leaders to set forth a*

process for developing strategies for the growth and diversification of the economy of this State.

(f) Policies relating to workforce development, employment needs of private employers and workforce shortages in occupations critical to the education, health and safety of the residents of this State.

(g) Other matters within the scope of the Council as determined necessary or appropriate by the Council.

2. *The Council may:*

(a) Establish committees to assist the Council in carrying out its duties.

(b) Apply for any available grants and may accept any gifts, grants and donations from any source to assist the Council in carrying out its duties.

Sec. 9. *On or before June 30 of each year, the Council shall submit a written report of its activities and any recommendations to the:*

1. *Board of Regents of the University of Nevada;*

2. *State Board;*

3. *Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature;*

4. *Legislative Committee on Education; and*

5. *Governor.*

Sec. 10. 1. On or before September 1, 2007, the Governor shall, pursuant to subsection 2 of section 6 of this act, appoint to the P-16 Advisory Council created by that section:

(a) ~~Four~~ **Three** members to terms commencing on September 1, 2007, and expiring on June 30, 2009.

(b) ~~Three~~ **Two** members to terms commencing on September 1, 2007, and expiring on June 30, 2010.

2. On or before September 1, 2007, the Majority Leader of the Senate and the Speaker of the Assembly shall, pursuant to subsection 3 of section 6 of this act, each appoint to the P-16 Advisory Council created by that section:

(a) ~~One member who is a parent of a pupil enrolled in a public school in this State or of a student enrolled in the Nevada System of Higher Education to a term commencing on September 1, 2007, and expiring on June 30, 2009.~~

~~(b)~~ One member of the House of the Legislature that he represents to a term commencing on September 1, 2007, and expiring on June 30, 2010.

~~(c) One member who is a:~~

~~(1) Teacher employed by the board of trustees of a school district or the governing body of a charter school; or~~

~~(2) A teacher, instructor or professor employed by the Board of Regents of the University of Nevada;~~

~~to a term commencing on September 1, 2007, and expiring on June 30, 2010.~~

(b) One member who meets the requirements of paragraph (a), (b) or (c) of subsection 2 of section 6 of this act to a term commencing on September 1, 2007, and expiring on June 30, 2009.

3. On or before September 1, 2007, the Minority Leader of the Senate shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2009.

4. On or before September 1, 2007, the Minority Leader of the Assembly shall, pursuant to subsection 4 of section 6 of this act, appoint to the P-16 Advisory Council created by that section one member to a term commencing on September 1, 2007, and expiring on June 30, 2010.

Sec. 11. (Deleted by amendment.)

Sec. 12. This act becomes effective on July 1, 2007.

Assemblywoman Smith moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 239.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 329, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 810 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

JERRY CLABORN

JOHN CARPENTER

JOSEPH HOGAN

Assembly Conference Committee

DEAN RHOADS

MIKE MCGINNESS

MICHAEL SCHNEIDER

Senate Conference Committee

Conference Amendment No. CA3.

AN ACT relating to animals; prohibiting a person from allowing a cat or dog to remain unattended in a parked or standing motor vehicle in a manner that endangers the health or safety of the cat or dog; **providing certain exceptions**; authorizing a peace officer to use force to remove a cat or dog from a motor vehicle under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person is prohibited from instigating, engaging in or in any way furthering an act of cruelty to an animal. (NRS 574.100) Such an act includes, without limitation, unjustifiably injuring or maiming an animal or carrying an animal in a vehicle in a cruel or inhuman manner. (NRS 574.100, 574.190)

Section 2 of this bill makes it a misdemeanor for a person to allow a cat or dog to remain unattended in a parked or standing car during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog. Section 2 authorizes a peace officer and certain other persons to use any force that is reasonable and necessary under the circumstances to remove the cat or dog from the motor vehicle. **Section 2 also provides certain exceptions for dogs used for public safety or hunting.** Section 5 of this bill provides that the existing general exemptions

from the provisions of chapter 574 of NRS also apply to the activities specified in section 2 of this bill. Those exemptions include, without limitation, the handling, housing and transporting of livestock or farm animals.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

- (a) Peace officer;**
 - (b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;**
 - (c) Animal control officer;**
 - (d) Governmental officer or employee whose primary duty is to ensure public safety;**
 - (e) Employee or volunteer of any organized fire department; or**
 - (f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff,**
- ↪ may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.**

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

- (a) A police animal or an animal that is used by:**
 - (1) A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or**
 - (2) A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization; ~~for~~**
- (b) A dog that is under the possession or control of:**
 - (1) An animal control officer; or**
 - (2) A first responder during an emergency ~~for~~;**
- (c) A dog that is under the possession or control of a person who:**
 - (1) Is actively engaged in hunting a species of game mammal or game bird during the season for hunting that species of game mammal or game bird;**
 - (2) Is using the dog for the purpose set forth in subparagraph (1); and**
 - (3) Holds a license or tag to hunt that species of game mammal or game bird during that season; or**
- (d) A dog that is participating in:**

(1) Training exercises relating to hunting; or**(2) Field trials relating to hunting.**

4. *A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.*

5. *A person who violates a provision of subsection 1 is guilty of a misdemeanor.*

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~{-}~~, **and section 2 of this act:**

1. "Animal" does not include the human race, but includes every other living creature.

2. **"First responder" means a person who has successfully completed the national standard course for first responders.**

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

~~{3-}~~ 4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, **and section 2 of this act** do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

Assemblyman Claborn moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 329.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 461, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 803 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

DAVID PARKS
PEGGY PIERCE
FRANCIS ALLEN

Assembly Conference Committee

MIKE MCGINNESS
WARREN HARDY
JOHN LEE

Senate Conference Committee

Conference Amendment No. CA12.

AN ACT relating to taxation; providing for certain reporting requirements and the review of certain expenditures relating to the Clark County Sales and Use Tax Act of 2005; authorizing the Board of County Commissioners of Nye County to increase the sales and use tax to support public safety services in Nye County; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Clark County Sales and Use Tax Act of 2005 authorized the Board of County Commissioners of Clark County to impose up to one-half of 1 percent sales and use tax to employ and equip additional police officers for various police departments in Clark County. Section 1 of this bill adds a requirement that any governmental entity that authorizes expenditures from the tax revenues for a police department must submit periodic reports to the Legislature concerning the use of that money, and authorizes the Legislative Commission to review and investigate those expenditures.

Sections 3-22 of this bill are modeled on the provisions of the Clark County Sales and Use Tax Act of 2005, and authorize the Board of County Commissioners of Nye County to impose an additional sales tax of up to one-half of 1 percent for the purposes of recruiting, employing and equipping additional firefighters, deputy sheriffs and other public safety personnel and constructing, improving and equipping public safety facilities in Nye County. Any proposed change in the use of the proceeds of the tax must be submitted to the voters and be approved by the Legislature. **Section 17.5 of this bill contains requirements identical to those in section 1 of this bill concerning reporting of expenditures of the tax revenues and the review and investigation of those expenditures.**

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

Section 1. The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.5, immediately following section 13, to read as follows:

Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section 13 of this Act shall submit to the Director of the

Legislative Counsel Bureau for transmittal to the members of the Legislature or the Legislative Commission when the Legislature is not in regular session, the periodic reports required pursuant to this section and such other information relating to the provisions of this Act as may be requested by the Director of the Legislative Counsel Bureau.

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this Act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this Act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this Act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The Legislative Commission may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this Act.

Sec. 2. Notwithstanding the provisions of section 1 of this act, the report submitted pursuant to section 1 of this act by a governing body to the Director of the Legislative Counsel Bureau on or before November 15, 2007, must separately cover:

1. The period beginning on October 1, 2005, and ending on September 30, 2007; and

2. The period beginning on July 1, 2006, and ending on June 30, 2007.

Sec. 3. Sections 3 to 22, inclusive, of this act may be cited as the Nye County Sales and Use Tax Act of 2007.

Sec. 4. The Legislature hereby finds and declares that:

1. Nye County has experienced and continues to experience substantial growth, growing from a population of 32,485 residents in 2000 to a projected population of over 44,580 residents in 2006;

2. Nye County is the third largest county in terms of geographic area in the United States and the growth in Nye County has occurred over this wide geographical area;

3. The increase in the number of public safety personnel and facilities to protect the residents of Nye County has not kept pace with this growth;

4. The danger from fire and crime is increasing in Nye County, and so is the time it takes for public safety personnel to respond when a resident reports a fire or crime;

5. It is intended that the Board of County Commissioners of Nye County establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:

(a) A written policy on providing public safety services oriented toward the involvement of residents of the community;

(b) The provision of training for all public safety personnel employed in the County that includes, without limitation, training relating to:

(1) Methods that may be used to analyze, respond to and solve problems commonly confronted by public safety personnel in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing public safety services; and

(4) Issues concerning not only the prevention of fires and crime, but also improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns relating to the provision of public safety services;

6. A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Nye County and the special financial conditions experienced in the County relating to the need to recruit, employ and equip more public safety personnel and to construct, improve and equip public safety facilities; and

7. The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 5. Except as otherwise provided in this act or unless the context otherwise requires, the terms used or referred to in this act have the meanings

ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 6 to 13, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 6. "Act" means the Nye County Sales and Use Tax Act of 2007.

Sec. 7. "Board" means the Board of County Commissioners of Nye County.

Sec. 8. "County" means Nye County.

Sec. 9. "County Treasurer" means the County Treasurer of Nye County.

Sec. 10. "Department" means the Department of Taxation created pursuant to NRS 360.120.

Sec. 11. "Employ" means making an expenditure for the purpose of providing employment, including, without limitation, paying wages and benefits.

Sec. 12. "Recruit" means making an expenditure for the purpose of attracting applicants for employment or persuading an applicant to accept employment, including, without limitation, providing materials and services relating to recruitment, paying signing bonuses, paying expenses relating to relocation and providing assistance with the purchase of a house.

Sec. 13. "Sheriff" means the Sheriff of Nye County.

Sec. 14. 1. The Board may enact an ordinance imposing a local sales and use tax to:

(a) Recruit, employ and equip additional firefighters, deputy sheriffs to the Sheriff and other public safety personnel;

(b) Improve and equip existing public safety facilities; and

(c) Construct and equip new public safety facilities.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:

(a) Allocated for expenditure:

(1) In the areas of Pahrump, Amargosa Valley, Beatty, Tonopah, Round Mountain, Manhattan, Gabbs and any other town or city created in Nye County after October 1, 2007, and in the remaining unincorporated area of Nye County on a pro rata basis in each of those areas based upon the ratio of the population of that area to the total population of Nye County; or

(2) In any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth in subsection 1 in accordance with the provisions of section 17 of this act.

↪ As used in this paragraph, "population" means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 17 of this act and only for the purposes set forth in subsection 1 unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 293.482, asking whether the uses for

the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

- (a) That was entered into on or before the effective date of the tax; or

- (b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the effective date of the ordinance.

Sec. 16. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 15 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

Sec. 17. 1. The proceeds received from any sales and use tax imposed pursuant to this act must be expended in each of the areas to which those proceeds are allocated for expenditure pursuant to section 14 of this act in such a manner that half of those proceeds are expended for the support of the services provided by local fire departments in that area and the remaining

half of those proceeds are expended for the support of the services provided by the Sheriff in that area.

2. No expenditure of those proceeds may be made unless the expenditure has been approved by the governing body of the area to which those proceeds have been allocated for expenditure. The governing body must approve the expenditure of the proceeds if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by local fire departments and the Sheriff in that area.

3. In determining whether a proposed use meets the requirement set forth in paragraph (b) of subsection 2, the governing body shall determine whether the amount approved for expenditure for the fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area.

Sec. 17.5. 1. Any governing body of an area that has approved expenditures pursuant to section 17 of this act shall ~~on or before September 1 of each year,~~ submit ~~to~~ **to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature, or the Legislative Commission when the Legislature is not in regular session, the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the Director of the Legislative Counsel Bureau.**

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include, with respect to the period covered by the report:

(a) **The total proceeds received by the respective local fire departments and the Sheriff from the sales and use tax imposed pursuant to this act;**

(b) **A detailed description of the use of the ~~[money,]~~ proceeds, including, without limitation ~~the~~:**

(1) The total expenditures made by the respective local fire departments and the Sheriff for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by the respective local fire departments and the Sheriff in each applicable area from the sales and use tax imposed pursuant to this act;

(2) The total number of firefighters, deputy sheriffs and other public safety personnel hired by local fire departments or the Sheriff, as applicable, and the number of those employees that are filling authorized, funded positions for new employees; and

(3) A detailed analysis of the manner in which each expenditure:

~~[1.]~~ **(I) Conforms to all provisions of this act; and**

~~[2.]~~ **(II) Does not replace or supplant funding which existed before October 1, 2007, for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by local fire departments and the Sheriff in ~~that~~ each applicable area ~~to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature.~~; and**

(c) Any other information required to complete the form for the report.

4. The Legislative Commission may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 17 of this act.

Sec. 18. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding

month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 19. The Department may redistribute any proceeds from the taxes, interest or penalties collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 20. 1. The County Treasurer shall:

(a) Deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 18 of this act into the County Treasury for credit to a special revenue fund created for the use of the proceeds from the tax authorized by this act; and

(b) Allocate that money into separate accounts within that fund as appropriate to carry out the provisions of paragraph (a) of subsection 3 of section 14 of this act.

2. The special revenue fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

3. Interest earned on the special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

Sec. 21. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

Sec. 22. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 23. 1. This section and sections 3 to 22, inclusive, of this act become effective:

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

(b) On October 1, 2007, for all other purposes.

2. Sections 1 and 2 of this act become effective on October 1, 2007, and expire by limitation on October 1, 2025.

3. Sections 3 to 22, inclusive, of this act expire by limitation on October 1, 2027.

Assemblyman Parks moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 461.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 154.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 154, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 719 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

MOISES DENIS

BERNIE ANDERSON

JOHN MARVEL

Assembly Conference Committee

RANDOLPH TOWNSEND

MAURICE WASHINGTON

BERNICE MATHEWS

Senate Conference Committee

Conference Amendment No. CA6.

SUMMARY—~~[Contingently allows the imposition of certain taxes in certain counties to fund capital projects for the county school district and clarifies]~~ **Clarifies** certain provisions governing taxes on transfers of real property ~~[]~~ **and contingently allows the imposition of additional taxes in Washoe County to fund capital projects for the county school district.** (BDR 32-712)

AN ACT relating to taxation; ~~[contingently allowing the imposition in certain counties of a tax on transfers of real property and a tax on revenue from the rental of transient lodging to fund capital projects for the county school district;]~~ clarifying the applicability of an exemption from the taxes on transfers of real property for transfers relating to changes in identity, form or place of organization; **contingently allowing the imposition in Washoe**

County of additional taxes to fund capital projects for the county school district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition of taxes on transfers of real property. (NRS 375.020, 375.023, 375.026) ~~[Section 1 of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of 60 cents for each \$500 of value of the transferred property, upon the request of the board of trustees of the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.]~~

Existing law **also** provides that certain transfers are exempt from **such** taxes . ~~[on transfers of real property.]~~ (NRS 375.090) Section 3 of this bill revises an exemption for transfers relating to a change in identity, form or place of organization to clarify that the exemption applies to the reorganization of any business entity.

~~[Existing law provides for the imposition of taxes on the rental of transient lodging. (NRS 244.3351, 244.3352) Section 5 of this bill provides for the imposition of such a tax in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) at the rate of one and five eighths percent of the gross receipts from such rentals, upon the request of the board of trustees of the county school district, for deposit in the county school district's fund for capital projects, and requires the use of at least 80 percent of the proceeds of the tax for enlarging, remodeling or repairing existing buildings or grounds for schools.~~

~~The provisions of this bill that provide for the imposition of additional taxes will become effective on January 1, 2009, only if the voters of the affected counties approve of the imposition of those taxes at the 2008 General Election.]~~

Sections 10.1-10.4 of this bill create the Washoe County Schools Construction and Revitalization Advisory Committee, require the Advisory Committee to prepare recommendations for the imposition of taxes to fund capital projects for the Washoe County School District, require the Board of County Commissioners to impose the taxes only if the voters of the County approve of the imposition of those taxes at the 2008 General Election, and require the Committee on Local Government Finance to adopt regulations prescribing the contents of any ordinance imposing those taxes.

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

Section 1. ~~[Chapter 375 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on transfers of real property other than another tax imposed in the county pursuant to this section, at the rate of 60 cents for each \$500 of value or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed exceeds \$100. Upon the receipt of a resolution adopted pursuant to this subsection, the board of county commissioners shall impose the requested tax.~~

~~2.—The amount of any tax imposed pursuant to this section must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.~~

~~3.—The county recorder shall collect any tax imposed pursuant to this section in the manner provided in NRS 375.030, except that he shall transmit all the proceeds of the tax imposed pursuant to this section and any applicable penalties and interest thereon to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund, except that not less than 80 percent of those proceeds must be used for the purposes described in paragraph (b) of subsection 1 of NRS 387.335.~~

~~4.—The proceeds of any tax imposed pursuant to this section must not be:~~

~~(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or~~

~~(b) Used to reduce or supplant the amount of any money which would otherwise be made available for the purposes described in subsection 1 of NRS 387.335.] (Deleted by amendment.)~~

Sec. 2. [NRS 375.030 is hereby amended to read as follows:

375.030—1.—If any deed evidencing a transfer of title subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 ~~and section 1 of this act~~ is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2.—The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 ~~and section 1 of this act~~ and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 ~~and section 1 of this act~~ or any penalties or interest imposed pursuant to subsection 3.

3.—If after recordation of the deed, the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the

county recorder shall promptly notify the person who requested the recording of the deed and the buyer and seller of the additional amount of tax due. If the additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

~~4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.] (Deleted by amendment.)~~

Sec. 3. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a ~~{corporation}~~ **business entity** and its parent ~~{corporation}~~ **business entity**, ~~its~~ **its** subsidiary or an affiliated ~~{corporation}~~ **business entity** if the affiliated ~~{corporation}~~ **business entity** has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,
 ➔ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, “educational foundation” has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, “university foundation” has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 4. ~~[NRS 375.090 is hereby amended to read as follows:~~

~~375.090—The taxes imposed by NRS 375.020, 375.023 and 375.026 and section 1 of this act do not apply to:~~

~~1.—A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.~~

~~2.—A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.~~

~~3.—A transfer of title recognizing the true status of ownership of the real property.~~

~~4.—A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.~~

~~5.—A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.~~

~~6.—A transfer of title between former spouses in compliance with a decree of divorce.~~

~~7.—A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.~~

~~8.—Transfers, assignments or conveyances of unpatented mines or mining claims.~~

~~9.—A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.~~

~~10.—A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.~~

~~11.—The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:~~

~~(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;~~

~~(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or~~

~~(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,~~

~~↪ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.~~

~~12.—The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:~~

~~(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;~~

~~(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and~~

~~(c) The transfer or conveyance is made in obedience to the order.~~

~~13.—A transfer to an educational foundation. As used in this subsection, “educational foundation” has the meaning ascribed to it in subsection 3 of NRS 388.750.~~

~~14.—A transfer to a university foundation. As used in this subsection, “university foundation” has the meaning ascribed to it in subsection 3 of NRS 396.405.] (Deleted by amendment.)~~

Sec. 5. [Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1.—The board of trustees of a county school district in a county whose population is 100,000 or more but less than 400,000 may adopt and transmit to the board of county commissioners of that county a resolution requesting the board of county commissioners to impose a tax, in addition to all other taxes imposed on the revenue from the rental of transient lodging other than another tax imposed in the county pursuant to this section, at the rate of one and five eighths percent of the gross receipts from the rental of transient lodging. Upon the receipt of a resolution adopted pursuant to this subsection, the board of county commissioners shall adopt an ordinance imposing the requested tax throughout the county, including its incorporated cities, upon all persons in the business of providing lodging.~~

~~2.—An ordinance imposing a tax pursuant to this section must include all the matters required by NRS 244.3352 for the mandatory tax, must be administered in the same manner, and imposes the same liabilities, except that:~~

~~(a) The collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after the adoption of the ordinance imposing the tax; and~~

~~(b) The governmental entity collecting the tax shall transfer all collections to the county treasurer and may not retain any part of the tax as a collection or administrative fee.~~

~~3.—The proceeds of any tax imposed pursuant to this section and any applicable penalties and interest thereon must be deposited in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund, except that not less than 80 percent of those proceeds must be used for the purposes described in paragraph (b) of subsection 1 of NRS 387.335.~~

~~4.—The proceeds of any tax imposed pursuant to this section must not be:~~

~~(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or~~

~~(b) Used to reduce or supplant the amount of any money which would otherwise be made available for the purposes described in subsection 1 of NRS 387.335.] (Deleted by amendment.)~~

Sec. 6. [NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351 and 244.3352.

2.—A county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991 [.] ~~, except pursuant to section 5 of this act.~~

3.—The Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended ~~after January 1, 2009~~, except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.] **(Deleted by amendment.)**

Sec. 7. [NRS 387.328 is hereby amended to read as follows:

387.328 1. The board of trustees of each school district shall establish a fund for capital projects for the purposes set forth in subsection 1 of NRS 387.335. The money in the fund for capital projects may be transferred to the debt service fund to pay the cost of the school district's debt service.

2.—The board of trustees may accumulate money in the fund for capital projects for a period not to exceed 20 years.

3.— That portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service must be deposited in the county treasury to the credit of the fund established under subsection 1 or the school district's debt service fund.

4.— No money in the fund for capital projects at the end of the fiscal year may revert to the county school district fund, nor may the money be a surplus for any other purpose than those specified in subsection 1.

5.— ~~[The] Subject to the limitations set forth in sections 1 and 5 of this act, the~~ proceeds of the taxes deposited in the fund for capital projects pursuant to NRS 244.3354, 268.0962 and 375.070 ~~and sections 1 and 5 of this act~~ may be pledged to the payment of the principal and interest on bonds or other obligations issued for one or more of the purposes set forth in NRS 387.335. The proceeds of such taxes so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the board of trustees of a school district may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.] **(Deleted by amendment.)**

Sec. 8. [NRS 388.750 is hereby amended to read as follows:

~~388.750 — 1.— An educational foundation:~~

~~(a) Shall comply with the provisions of chapter 241 of NRS;~~

~~(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and~~

~~(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 and section 1 of this act pursuant to subsection 13 of NRS 375.090.~~

2.— An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3.— As used in this section, "educational foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

~~(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;~~

~~(b) Formed pursuant to the laws of this State; and~~

~~(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).] **(Deleted by amendment.)**~~

Sec. 9. [NRS 396.405 is hereby amended to read as follows:

~~396.405 — 1.— A university foundation:~~

~~(a) Shall comply with the provisions of chapter 241 of NRS;~~

~~(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;~~

~~(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 and section 1 of this act pursuant to subsection 14 of NRS 375.090; and~~

~~(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.~~

~~2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.~~

~~3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:~~

~~(a) Organized and operated exclusively for the purpose of supporting a university, state college or a community college;~~

~~(b) Formed pursuant to the laws of this State; and~~

~~(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).] (Deleted by amendment.)~~

~~Sec. 10. [At the general election on November 4, 2008, in each county whose population is 100,000 or more but less than 400,000, a question must be placed on the general election ballot in substantially the following form:~~

~~Shall:~~

~~1. The tax on transfers of real property in this county be increased by 60 cents for each \$500 of the value of the transferred property; and~~

~~2. The tax on the revenue from the rental of transient lodging in this county be increased by one and five eighths percent of the gross receipts from such rentals,~~

~~to fund capital projects for the county school district?]~~ (Deleted by amendment.)

Sec. 10.1. 1. The Washoe County Schools Construction and Revitalization Advisory Committee is hereby created. The Advisory Committee consists of the Superintendent of Schools of the Washoe County School District and 14 additional members who must be appointed as follows:

(a) Two members of the Senate who are representative of Washoe County, appointed by the Majority Leader of the Senate. Each of the members appointed pursuant to this paragraph must be a member of a different major political party.

(b) Two members of the Assembly who are representative of Washoe County, appointed by the Speaker of the Assembly. Each of the members appointed pursuant to this paragraph must be a member of a different major political party.

(c) One member who is a representative of gaming, appointed by the association of gaming establishments whose membership collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the county in the preceding year.

(d) One member who is a representative of business or commercial interests other than gaming, appointed by the Reno-Sparks Chamber of Commerce.

(e) One member who is a representative of the Nevada Association of Realtors, appointed by the Nevada Association of Realtors.

(f) One member whose is a representative of the association of homebuilders with the largest membership in the county, appointed by that association.

(g) One member who is a representative of the county fair and recreation board, appointed by that board.

(h) One member who is a representative of the largest publicly-traded electric utility in the county, appointed by that utility.

(i) One member who is a representative of a labor organization, appointed by the State of Nevada AFL-CIO.

(j) One member who is a representative of the largest organization of educators in the county, appointed by that organization.

(k) One member who is a representative of the general public, appointed by the parent-teacher association with the largest membership in the county.

(l) One member who is a representative of the general public, appointed by the Governor. The member appointed pursuant to this paragraph must be a registered voter in the county.

2. Each of the members appointed pursuant to paragraphs (c) to (i), inclusive, of subsection 1 must be a member of the governing board or an executive officer of the entity entitled to appoint the member.

3. The Legislative Commission shall appoint the Chairman of the Advisory Committee from among the members appointed pursuant to paragraphs (a) and (b) of subsection 1.

4. Any vacancy occurring on the Advisory Committee must be filled by the person or entity entitled to appoint the member whose position is vacant.

5. The members of the Advisory Committee who are not Legislators shall serve without salary, but they are entitled to receive out of the Legislative Fund the per diem expense allowances and travel expenses provided for state officers and employees generally. Except during a regular or special session of the Legislature, members of the Advisory Committee who are Legislators are entitled to receive out of the Legislative Fund the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day or portion of a day of attendance, and the per diem expense allowances provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

6. The Superintendent of Schools of the Washoe County School District shall provide such staff and other support as is necessary for the Advisory Committee to perform its duty.

Sec. 10.2. 1. The Washoe County Schools Construction and Revitalization Advisory Committee shall, not later than May 1, 2008:

(a) Prepare recommendations for the imposition of one or more taxes in the county to provide funding for the Washoe County School District for the purposes set forth in subsection 1 of NRS 387.335; and

(b) Submit the recommendations to the Board of Trustees of the Washoe County School District.

2. Each recommendation submitted to the Board of Trustees pursuant to subsection 1 must be approved by at least 10 members of the Advisory Committee.

3. The Board of Trustees shall adopt and transmit to the Board of County Commissioners of Washoe County a resolution requesting the Board of County Commissioners to adopt an ordinance imposing any tax or taxes recommended by the Advisory Committee and submitted to the Board of Trustees pursuant to this section. The Board of County Commissioners shall:

(a) At the general election on November 4, 2008, submit a question to the voters of the county asking whether the recommended tax or taxes should be imposed in the county; and

(b) If a majority of the voters voting on the question vote affirmatively on the question, adopt an ordinance imposing the recommended tax or taxes. The tax or taxes may be imposed notwithstanding the provisions of any specific statute to the contrary.

Sec. 10.3. 1. The Committee on Local Government Finance shall, not later than November 1, 2008, adopt regulations prescribing the contents of any ordinance which may be adopted pursuant to section 10.2 of this act. The regulations:

(a) Must:

(1) Prescribe procedures for the administration and enforcement of any tax or taxes imposed; and

(2) Prohibit the collection before January 1, 2009, of any tax or taxes imposed; and

(b) May include such other matters as the Committee deems to be appropriate.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 10.4. The proceeds of any tax or taxes imposed under an ordinance adopted pursuant to section 10.2 of this act:

1. Must be deposited in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund; and

2. Must not be:

(a) Considered in any negotiations between a recognized organization of employees of a school district and the school district; or

(b) Used to reduce or supplant the amount of any money which would otherwise be made available for the purposes described in subsection 1 of NRS 387.335.

Sec. 11. 1. This ~~[section and sections 3 and 10 of this act become]~~ act becomes effective on July 1, 2007.

2. ~~[Sections 1, 2 and 4 to 9, inclusive, of this act become effective on January 1, 2009, only if a majority of the voters voting on the question placed on the ballot pursuant to section 10 of this act vote affirmatively on the question in all the counties in which the question was placed on the ballot.]~~
Section 10.1 of this act expires by limitation on May 1, 2008.

Assemblyman Denis moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 154.

Remarks by Assemblyman Denis.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 202.

The following Senate amendment was read:

Amendment No. 1039.

AN ACT making an appropriation to the State Gaming Control Board for implementation of new information system security measures and replacement of equipment; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the sum of ~~[\$748,622]~~ **\$943,904** for the implementation of new information system security measures and the purchase of replacement equipment for electronic eavesdropping countermeasures, computer hardware and software and radio equipment.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 202.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 273.

The following Senate amendment was read:

Amendment No. 1040.

AN ACT making an appropriation to the Department of Health and Human Services for computer software and hardware and other equipment; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services, Aging Older Americans Act, the sum of ~~[\$63,447]~~ **\$52,748** to partially fund the replacement of computer hardware and software and to partially fund the purchase of air-conditioning for server rooms in Reno and Carson City.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 273.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 563.

Bill read third time.

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

Amendment No. 1145.

SUMMARY— ~~Revises [provisions governing education and makes appropriations relating to education.] the calculation of the basic support guarantee for school districts in Fiscal Year 2008-2009 under certain circumstances.~~ (BDR ~~[34]~~ **S-531**)

AN ACT relating to education; revising the ~~requirements for the biennial budgetary request for the State Distributive School Account; revising provisions governing the distribution of certain grants; providing that a certain percentage in the ending fund balance of the general fund of a school district is not subject to negotiations; revising provisions governing the calculation of basic support to provide kindergarten for a full school day;~~

~~making various appropriations for education and for educational personnel; repealing the provision requiring the purchase of retirement service for certain teachers and school psychologists; calculation of the basic support guarantee for school districts in Fiscal Year 2008-2009 under certain circumstances; and providing other matters properly relating thereto.~~

Legislative Counsel's Digest:

~~[Existing law creates the Commission on Educational Excellence and provides for grants of money by the Commission from the Account for Programs of Innovation and the Prevention of Remediation. (NRS 385.3781-385.379) Section 2 of this bill revises the application process for a grant of money from the Account to provide that school districts and charter schools may submit an application and removes the submission of an application by an individual public school of a school district.~~

~~Section 3 of this bill prohibits a certain percentage of the ending fund balance in a school district's general fund from being used to: (1) settle negotiations or arbitrate disputes between the school district and an employee organization; and (2) raise salaries or increase benefits of employees.~~

~~Existing law requires the board of trustees of each school district to establish a kindergarten department in each elementary school in the school district. Certain exceptions apply to schools with fewer than 15 children applying for enrollment in kindergarten. Public Instruction and to the Department of Taxation a written report of the annual budget of the school district. The Superintendent of Public Instruction is required to compile the reports of the annual budgets and submit the written compilation to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau. (NRS 387.303) Section 7 of this bill requires the Superintendent of Public Instruction to include certain information in the biennial budget request for the State Distributive School Account for submission to the Department of Administration based upon the annual budgets submitted by the school districts.~~

~~Section 9 of this bill creates a Grant Fund for Incentives for Licensed Educational Personnel and requires the board of trustees of each school district to establish a program of incentive pay for licensed educational personnel.~~

~~Sections 11-24 of this bill make various appropriations for education as follows: (1) inflationary costs of school districts; (2) books, supplies and equipment; (3) increasing salaries and associated benefits for teachers and licensed educational personnel; (4) health insurance for licensed educational personnel; (5) programs of incentive pay; (6) signing bonuses to licensed educational personnel and school nurses; (7) various student programs and career and technical education courses; (8) the provision of full-day kindergarten; and (9) professional development for teachers.~~

~~Under existing law, the board of trustees of a school district is required to purchase one-fifth of a year of retirement service for certain teachers and school psychologists. (NRS 391.165) Section 26 of this bill repeals that~~

~~section of NRS.] This bill would require the Superintendent of Public Instruction to recalculate the basic support guarantee for Fiscal Year 2008-2009 based upon a salary increase of 4.375 percent rather than 4 percent if the projected revenues from the local school support tax exceed a certain threshold.~~

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

Delete existing sections 1 through 27 of this bill and replace with the following new section 1:

Section 1. 1. On or before May 1, 2008, the Interim Finance Committee shall project the revenue to be received in the Fiscal Year 2007-2008 from out-of-state local school support tax revenues within the State Distributive School Account plus in-state local school support tax revenues pursuant to paragraph (b) of subsection 1 of NRS 387.1235, using all relevant information known to it.

2. If the amount projected pursuant to subsection 1 exceeds \$1,146,335,088 the Interim Finance Committee shall so notify the Superintendent of Public Instruction and the Superintendent shall base the recalculation of the basic support guarantee required by subsection 6 of section 2 of Assembly Bill No. 627 of this session on a salary increase of 4.375 percent taking effect on July 1, 2008 instead of an increase of 4 percent.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

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

Assembly Bill No. 617.

Bill read third time.

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

Amendment No. 1144.

SUMMARY—Makes an appropriation to the **Interim Finance Committee for certain contingencies and potential transfer to the** Fund to Stabilize the Operation of the State Government. (BDR S-1228)

AN ACT making an appropriation to the **Interim Finance Committee for certain contingencies and potential transfer to the** Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

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

Section 1. **1.** There is hereby appropriated from the State General Fund to the ~~Fund to Stabilize the Operation of the State Government created~~

~~pursuant to NRS 353.288~~ Interim Finance Committee the sum of \$36,000,000.

2. If the State Board of Examiners finds that circumstances for which the Legislature has made no other provision require a substantial expenditure that greatly exceeds the amount appropriated by the Legislature for that purpose, it may request an allocation by the Interim Finance Committee from the amount appropriated pursuant to subsection 1. If the Interim Finance Committee determines that the expenditure is required, that the amount greatly exceeds the amount appropriated by the Legislature for that purpose and that no other source of funding is available for the expenditure, the Interim Finance Committee may approve an allocation from the appropriation. The Interim Finance Committee shall by resolution establish the amount and purpose of the allocation, and direct the State Controller to transfer that amount to the appropriate fund and account. The State Controller shall thereupon make the transfer. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. Upon receipt of the projections and estimates of the Economic Forum pursuant to paragraph (d) of subsection 1 of NRS 353.228 that are required to be reported before December 1, 2008, the Interim Finance Committee shall project the ending balance in the State General Fund for the Fiscal Year 2008-2009, using all relevant information available. If the projected ending fund balance for the Fiscal Year 2008-2009 exceeds the amount estimated by the 2007 Legislature, any remaining balance of the amount appropriated pursuant to subsection 1 must be transferred on January 1, 2009, to the Fund to Stabilize the Operation of State Government created pursuant to NRS 353.288.

Sec. 2. This act becomes effective on July 1, 2008.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 191.

Bill read third time.

Roll call on Senate Bill No. 191:

YEAS—42.

NAYS—None.

Senate Bill No. 191 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 547.

Bill read third time.

Roll call on Senate Bill No. 547:

YEAS—42.

NAYS—None.

Senate Bill No. 547 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 563.

Bill read third time.

Roll call on Assembly Bill No. 563:

YEAS—42.

NAYS—None.

Assembly Bill No. 563 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 617.

Bill read third time.

Roll call on Assembly Bill No. 617:

YEAS—42.

NAYS—None.

Assembly Bill No. 617 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 50, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 759 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 24, which is attached to and hereby made a part of this report.

MARCUS CONKLIN
SUSAN GERHARDT

MARK AMODEI
VALERIE WIENER
TERRY CARE

Assembly Conference Committee

Senate Conference Committee

Conference Amendment No. CA24.

AN ACT relating to peace officers; requiring law enforcement agencies to adopt policies and procedures that provide for the acceptance of service of ~~[any legal process on behalf of peace officers,]~~ **certain subpoenas**; amending the exceptions that authorize the release of the home address of a peace officer by a law enforcement agency in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires law enforcement agencies to adopt policies and procedures that provide for the acceptance of ~~[service of any legal process,]~~ **certain subpoenas** on behalf of peace officers.

Existing law provides that the home address of a peace officer is not public information and is confidential unless the peace officer authorizes the release

of the address or has been arrested. (NRS 289.025) Section 2 of this bill authorizes the release of the home address of a peace officer to the public only if the officer has been arrested and the home address is included in a report of a 911 telephone call, a police report, a witness statement or certain reports relating to the custody of a child. (NRS 289.025)

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

Section 1. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each law enforcement agency shall adopt policies and procedures that provide for the orderly and safe acceptance of service of ~~any legal process that is~~ certain subpoenas served on a peace officer employed by the law enforcement agency.

2. ~~The policies and procedures required by subsection 1 must include, without limitation:~~

~~(a) At least one centralized location at which service of legal process will be accepted on behalf of peace officers;~~

~~(b) At least a 4-hour consecutive period on each workday when service of legal process will be accepted at any location specified pursuant to paragraph (a);~~

~~3. Each law enforcement agency shall:~~

~~(a) Post a copy of the policies and procedures adopted pursuant to subsection 1 in a conspicuous place at each location described in paragraph (a) of subsection 2; and~~

~~(b) Upon request, provide a copy of the policies and procedures adopted pursuant to subsection 1 to any member of the public.~~

~~4. Any legal process~~ A subpoena to be served upon a peace officer that is authorized to be served upon a law enforcement agency in accordance with the policies and procedures adopted pursuant to subsection 1 may be served in the manner provided by ~~the~~ those policies and procedures . ~~adopted pursuant to subsection 1.~~

~~5. This section provides an additional manner of serving legal process, and does not affect the validity of any other valid service.~~

~~6. As used in this section, "legal process" means a subpoena, any civil or criminal process or any demand or notice authorized by law to be served upon a person.~~

Sec. 2. NRS 289.025 is hereby amended to read as follows:

289.025 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 3**, the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.

2. The ~~home address and~~ photograph of a peace officer may be released:

(a) If the peace officer authorizes the release; or

(b) If the peace officer has been arrested.

3. The home address of a peace officer may be released if a peace officer has been arrested and the home address is included in any of the following:

(a) A report of a 911 telephone call.

(b) A police report, investigative report or complaint which a person filed with a law enforcement agency.

(c) A statement made by a witness.

(d) A report prepared pursuant to NRS 432B.540 by an agency which provides child welfare services, which report details a plan for the placement of a child.

Sec. 3. NRS 174.345 is hereby amended to read as follows:

174.345 1. Except as otherwise provided in NRS 174.315 and subsection 2, a subpoena may be served by a peace officer or by any other person who is not a party and who is not less than 18 years of age. ~~[Service]~~ **Except as otherwise provided in section 1 of this act, service** of a subpoena must be made by delivering a copy thereof to the person named.

2. Except as otherwise provided in NRS 174.315, a subpoena to attend a misdemeanor trial may be served by mailing the subpoena to the person to be served by registered or certified mail, return receipt requested from that person, in a sealed postpaid envelope, addressed to the person's last known address, not less than 10 days before the trial which the subpoena commands him to attend.

3. If a subpoena is served by mail, a certificate of the mailing must be filed with the court within 2 days after the subpoena is mailed.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Conklin moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 50.

Motion carried by a constitutional majority.

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

Assembly in recess at 6:15 p.m.

ASSEMBLY IN SESSION

At 7:53 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 146, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 232, Amendment No. 1132; Assembly Bill No. 586, Amendment No. 1126; Assembly Bill No. 591, Amendment No. 1131; Assembly Bill No. 595, Amendment No. 1124; Assembly Bill No. 619, Amendments Nos. 1096, 1134, and respectfully requests your honorable body to concur in said amendments.

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 319, Senate Amendment No. 869, and requests a conference, and appointed Senators Beers, Coffin and Rhoads as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 594, Senate Amendment No. 1071, and requests a conference, and appointed Senators Nolan, Woodhouse and Washington as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 385.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 496.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 575, 576.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 324, 326, 466.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 287, 301, 443.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Washington, Mathews and Nolan as a first Conference Committee concerning Senate Bill No. 404.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 43.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 131.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 171.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 303.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 320.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 329.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 412.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Arberry, Buckley, and Hardy as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 319.

Madam Speaker appointed Assemblymen Gerhardt, Atkinson, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 594.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 320, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 871 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 16, which is attached to and hereby made a part of this report.

PEGGY PIERCE

MARILYN KIRKPATRICK

T. GRADY

Assembly Conference Committee

BOB BEERS

JOHN LEE

TERRY CARE

Senate Conference Committee

Conference Amendment No. CA16.

AN ACT relating to airports; exempting the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law and with certain exceptions, the governing body of a city is required to obtain two independent appraisals when offering real property for sale or lease and is required to sell or lease the property at auction. (NRS 268.059-268.062) ~~(Similar provisions apply to counties. (NRS 244.2795-244.283) Under existing law, airport authorities created by special acts of the Legislature are required to sell or otherwise dispose of real property by public auction. (Airport Auth. Act for Battle Mountain, § 10; Airport Auth. Act for Carson City, § 9; Reno-Tahoe Airport Auth. Act, § 10))~~ This bill authorizes the ~~board of county commissioners of a county whose population is less than 40,000 (currently counties other than Clark, Washoe, Elko and Douglas Counties, and Carson City), the governing body of a city located in such a county or an airport authority in such a county (currently the Airport Authority of Battle Mountain))~~ **governing body of a city whose population is less than 25,000 (currently Boulder City, Caliente, Carlin, Elko, Ely, Fallon, Fernley, Lovelock, Mesquite, Wells, West Wendover, Winnemucca and Yerington)** to rent or lease space **that is less than one-half of an acre** for the parking or storage of aircraft on the grounds of an airport owned or operated by the ~~county,~~ city ~~for airport authority,~~ without conducting or causing to be conducted an appraisal or a public auction. (NRS 496.080) ~~(Airport Auth. Act for Battle Mountain, § 10))~~

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

Section 1. NRS 496.080 is hereby amended to read as follows:

496.080 1. Except as otherwise provided in subsection 2 or as may be limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, every municipality may, by sale, lease or otherwise, dispose of any airport, air navigation facility ~~[-]~~ or other property, or portion thereof or interest therein, acquired pursuant to this chapter.

2. The disposal by sale, lease or otherwise must be:

(a) ~~[-]~~ ***Except as otherwise provided in subsection 3, made*** by public auction; and

(b) In accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal Government for aeronautical purposes incident thereto, the sale, lease or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality, and except as otherwise provided in subsections 3, 4 and 5 of NRS 496.090.

3. The governing body of a city ~~[-]~~ whose population is less than ~~[-]~~ 25,000 may rent or lease to a person a space that is less than one-half of an acre for the parking or storage of aircraft on the grounds of a municipal airport that is owned or operated by the city without conducting or causing to be conducted an appraisal or a public auction.

Sec. 1.2. ~~[-]~~ Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[-]~~ A board of county commissioners of a county whose population is less than 40,000 may rent or lease to a person a space for the parking or storage of aircraft on the grounds of an airport that is owned or operated by the county without conducting or causing to be conducted an appraisal or a public auction. ***(Deleted by amendment.)***

Sec. 1.4. ~~[-]~~ NRS 244.2795 is hereby amended to read as follows:

~~244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2825, 244.284, 244.287, 244.290 and section 1.2 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:~~

~~(a) Obtain two independent appraisals of the real property before selling or leasing it. The appraisals must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.~~

~~(b) Select the two independent appraisers from the list of appraisers established pursuant to subsection 2.~~

~~(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.~~

~~2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:~~

~~(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and~~

~~(b) Be organized at random and rotated from time to time.~~

~~3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.~~

~~4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.]~~

(Deleted by amendment.)

Sec. 1.6. ~~[NRS 244.281 is hereby amended to read as follows:~~

~~244.281 Except as otherwise provided in this section and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.284, 244.287, 244.290, and section 1.2 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:~~

~~1. When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:~~

~~(a) Sell the property in the manner prescribed for the sale of real property in NRS 244.282.~~

~~(b) Lease the property in the manner prescribed for the lease of real property in NRS 244.283.~~

~~2. Before the board of county commissioners may sell or lease any real property as provided in subsection 1, it shall:~~

~~(a) Post copies of the resolution described in subsection 1 in three public places in the county; and~~

~~(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:~~

~~(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;~~

~~(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and~~

~~(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.~~

~~➤ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.~~

~~3. If the board of county commissioners by its resolution further finds that the property to be sold or leased is worth more than \$1,000, the board shall appoint two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the property and, except for property acquired pursuant to NRS 371.047, shall not sell or lease it for less than the highest appraised value.~~

~~4. If the property is appraised at \$1,000 or more, the board of county commissioners may:~~

~~(a) Lease the property; or~~

~~(b) Sell the property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.~~

~~5. A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:~~

~~(a) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that:~~

~~(1) The real property is a:~~

~~(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;~~

~~(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or~~

~~(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease; and~~

~~(2) The sale will be in the best interest of the county.~~

~~(b) Another governmental entity if:~~

~~(1) The sale or lease restricts the use of the real property to a public use; and~~

~~(2) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.~~

~~6. A board of county commissioners that disposes of real property pursuant to subsection 4 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.~~

~~7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the board of county commissioners must obtain a new appraisal of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the board of county commissioners may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.~~

~~8. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.] (Deleted by amendment.)~~

~~Sec. 1.8. [NRS 244.283 is hereby amended to read as follows:~~

~~244.283 1. When the board of county commissioners determines that the lease of real property belonging to the county for industrial, commercial, residential or recreational purposes is necessary or desirable, the board may lease such real property, whether acquired by purchase, dedication or otherwise. Such a lease must not be in contravention of any condition in a gift or devise of real property to the county.~~

~~2. Except as otherwise provided in NRS 244.279, and section 1.2 of this act, before ordering the lease of any property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to lease the property. The resolution must:~~

~~(a) Describe the property proposed to be leased in such manner as to identify it.~~

~~(b) Specify the minimum rental, and the terms upon which it will be leased.~~

~~(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed proposals to lease will be received and considered.~~

~~3. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:~~

~~(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and~~

~~(b) Publishing the resolution not less than once a week for 2 successive weeks before the meeting in a newspaper of general circulation published in the county, if any such newspaper is published therein.~~

~~4. At the time and place fixed in the resolution for the meeting of the board, all sealed proposals which have been received must, in public session, be opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to lease and which are made by responsible bidders, the proposal which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.~~

~~5. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to lease the property upon the terms and conditions specified in the resolution, for a rental exceeding by at least 5 percent the highest written proposal, then the highest oral bid which is made by a responsible person must be finally accepted.~~

~~6. A person may not make an oral bid unless, at least 5 days before the meeting held for receiving and considering bids, he submits to the board written notice of his intent to make an oral bid and a statement establishing his financial responsibility to the satisfaction of the board.~~

~~7. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.~~

~~8. The board may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from lease.~~

~~9. Any resolution of acceptance of any bid made by the board must authorize and direct the chairman to execute a lease and to deliver it upon performance and compliance by the lessee with all the terms or conditions of his contract which are to be performed concurrently therewith.~~

~~10. All money received from rentals of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.~~

~~11. This section does not apply to leases of real property made pursuant to NRS 244.288, 334.070 or 338.177.] (Deleted by amendment.)~~

Sec. 2. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for

the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, ~~and~~ paragraph (a) of subsection 1 of NRS 268.050 ~~[-]~~ **and subsection 3 of NRS 496.080:**

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible pursuant to NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.

Sec. 3. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, **and subsection 3 of NRS 496.080**, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) Obtain two independent appraisals of the real property before selling or leasing it. The appraisals must be based on the zoning of the real property as set forth in the master plan for the city and must have been prepared not more than 6 months before the date on which real property is offered for sale or lease.

(b) Select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of

income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

Sec. 4. NRS 268.061 is hereby amended to read as follows:

268.061 Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, **and subsection 3 of NRS 496.080**, except as otherwise provided by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

1. If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

2. Before the governing body may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the city; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➡ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. If the governing body by its resolution finds additionally that the real property to be sold is worth more than \$1,000, the board shall conduct an appraisal pursuant to NRS 268.059 to determine the value of the real

property and, except for real property acquired pursuant to NRS 371.047, shall not sell or lease it for less than the highest appraised value.

4. If the real property is appraised at \$1,000 or more, the governing body may:

- (a) Lease the real property; or
- (b) Sell the real property for:

- (1) Cash; or

- (2) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust bearing such interest and upon such further terms as the governing body may specify.

5. A governing body may sell or lease any real property owned by the city without complying with the provisions of this section and NRS 268.059 and 268.062 to:

- (a) A person who owns real property located adjacent to the real property to be sold or leased if the governing body has determined by resolution that:

- (1) The real property is a:

- (I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

- (II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; or

- (III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; and

- (2) The sale or lease will be in the best interest of the city.

- (b) Another governmental entity if:

- (1) The sale or lease restricts the use of the real property to a public use; and

- (2) The governing body adopts a resolution finding that the sale or lease will be in the best interest of the city.

6. A governing body that disposes of real property pursuant to subsection 5 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list

the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

Sec. 5. NRS 268.062 is hereby amended to read as follows:

268.062 1. Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, **and subsection 3 of NRS 496.080**, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, the governing body shall, in open meeting by a majority vote of the members and before ordering the sale or lease at auction of any real property, adopt a resolution declaring its intention to sell or lease the property at auction. The resolution must:

- (a) Describe the property proposed to be sold or leased in such a manner as to identify it;
- (b) Specify the minimum price and the terms upon which the property will be sold or leased; and
- (c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the governing body to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

- (a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and
- (b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

- (1) A description of the real property proposed to be sold or leased at auction in such a manner as to identify it;
- (2) The minimum price of the real property proposed to be sold or leased at auction; and
- (3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➡ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chairman to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of his contract which are to be performed concurrently therewith.

Sec. 5.5. ~~NRS 371.047 is hereby amended to read as follows:~~

~~371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:~~

~~(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.~~

~~(b) Pay for the cost of moving persons whose primary residences are condemned for a right of way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.~~

~~2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, and section 1.2 of this act, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:~~

~~(a) Abutter's rights of light, view or air.~~

~~(b) Easements of access to and from abutting land.~~

~~(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.~~

~~3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045.~~

~~4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:~~

~~(a) Constitutes a taking of all or any part of the property, or interest therein;~~

~~(b) Lowers the value of the property; or~~

~~(c) Constitutes a nuisance.~~

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

~~(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.~~

~~(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.~~

~~(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single family or multifamily dwelling is located.]~~
~~(Deleted by amendment.)~~

Sec. 6. ~~{Section 10 of the Airport Authority Act for Battle Mountain, being chapter 459, Statutes of Nevada 1982, as last amended by chapter 381, Statutes of Nevada 2005, at page 1470, is hereby amended to read as follows:~~

~~Sec. 10. Authority: General powers. The Authority may do all things necessary to accomplish the purposes of this act. The Authority may, by reason of example and not of limitation:~~

~~1. Have perpetual succession and sue and be sued.~~

~~2. Plan, establish, acquire, construct, improve and operate an airport within Lander County.~~

~~3. Acquire real or personal property or any interest therein by gift, lease or purchase for any of the purposes provided in this section, including the elimination, prevention or marking of airport hazards.~~

~~4. Except as otherwise provided in this subsection, sell, lease or otherwise dispose of any real property. [If] Unless the provisions of subsection 5 apply, if the Authority sells or otherwise disposes of real property, the sale or other disposal must be made by public auction.~~

~~5. The Authority may rent or lease to a person a space for the parking or storage of aircraft on the grounds of an airport controlled by the Authority without conducting or causing to be conducted an appraisal or a public auction.~~

~~6. Acquire real property or any interest therein in areas most affected by aircraft noise for the purpose of resale or lease thereof, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise.~~

~~[6.] 7. Enter into agreements with Lander County and Battle Mountain to acquire, by lease, gift, purchase or otherwise, any airport of the county or municipality and to operate the airport.~~

~~[7.] 8. Exercise the power of eminent domain and dominant eminent domain in the manner provided by law for the condemnation by a town of private property for public use to take any property necessary to the exercise of the powers granted, within the designated district in Lander County.~~

~~[8.] 9. Apply directly to the proper federal, state, county and municipal officials and agencies or to any other source, public or private, for loans, grants, guarantees or other financial assistance in aid of airports operated by it, and accept the same.~~

~~[9.] 10. Prepare and adopt a comprehensive, long term general plan for the physical development of all property owned and operated by the Authority for submission to the Board of County Commissioners of Lander County. The Authority may prepare and adopt for approval by the Board of County Commissioners of Lander County a comprehensive zoning plan of all property owned or operated by the Authority. The zoning plan must be consistent with the requirements of chapter 497 of NRS and any applicable federal laws and regulations.~~

~~[10.] 11. Have control of its airports with the right and duty to establish and charge fees, rentals, rates and other charges, and collect revenues therefrom, not inconsistent with the rights of the holders of its bonds, and enter into agreements with carriers for the payment of landing fees, rental rates and other charges.~~

~~[11.] 12. Use in the performance of its functions the officers, agents, employees, services, facilities, records and equipment of Lander County or Battle Mountain, with the consent of the county or municipality and subject to such terms and conditions as may be agreed upon.~~

~~[12.] 13. Enter upon such lands, waters or premises as in the judgment of the Authority may be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this act. The Authority is liable for actual damage done.~~

~~[13.] 14. Provide its own fire protection, police and crash and rescue service.~~

~~[14.] 15. Contract with carriers with regard to landings and the accommodations of the employees and passengers of such carriers.~~

~~[15.] 16. Contract with persons or corporations to provide goods and services for the use of the employees and passengers of the carriers and the employees of the Authority, as necessary or incidental to the operation of the airports.~~

~~[16.] 17. Hire and retain officers, agents and employees, including a fiscal adviser, engineers, attorneys or other professional or specialized personnel.~~

~~[17.] 18. Adopt regulations governing vehicular traffic on its airports relating, but not limited to, speed restrictions, stopping, standing and parking, loading zones, turning movements and parking meters. It is unlawful for any person to do any act forbidden or fail to perform any act required in such regulations.] (Deleted by amendment.)~~

Sec. 7. Section 1 of Assembly Bill No. 289 of this session is hereby repealed.

Sec. 8. 1. This section and section 7 of this act become effective upon passage and approval.

2. Sections 2 to 6, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTION

Section 1 of Assembly Bill No. 289 of this session:

Section 1. NRS 496.080 is hereby amended to read as follows:

496.080 1. Except as otherwise provided in subsection 2 or as may be limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, every municipality may, by sale, lease or otherwise, dispose of any airport, air navigation facility ~~{,}~~ or other property, or portion thereof or interest therein, acquired pursuant to this chapter.

2. The disposal by sale, lease or otherwise must be:

(a) ~~{Made}~~ ***Except as otherwise provided in subsection 3, made*** by public auction; and

(b) In accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal Government for aeronautical purposes incident thereto, the sale, lease or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality, and except as otherwise provided in subsections 3, 4 and 5 of NRS 496.090.

3. *The governing body of a city located in a county whose population is less than 40,000 may rent or lease to a person a space for the parking or storage of aircraft on the grounds of a municipal airport that is owned or operated by the city without conducting or causing to be conducted an appraisal or a public auction.*

Assemblywoman Pierce moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 320.

Remarks by Assemblywoman Pierce.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 483.

SHERRY L. Rodriguez
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 287.

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

Motion carried.

Senate Bill No. 301.

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

Motion carried.

Senate Bill No. 324.

Assemblyman Ocegueda moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 326.

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

Motion carried.

Senate Bill No. 443.

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

Motion carried.

Senate Bill No. 466.

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

Motion carried.

Senate Bill No. 575.

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

Motion carried.

Senate Bill No. 576.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 146.

Bill read third time.

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

Amendment No. 1105.

SUMMARY—Requires the Department of Health and Human Services to establish ~~the program~~ **programs** to increase public awareness of health care information concerning the hospitals **and surgical centers for ambulatory patients** in this State. (BDR 40-687)

AN ACT relating to health care; requiring the Department of Health and Human Services to establish ~~the program~~ **programs** to increase public awareness of health care information concerning the hospitals **and surgical centers for ambulatory patients** in this State; requiring the Department to establish and maintain an Internet website which provides certain information concerning the charges imposed and the quality of health care provided by ~~the~~ **those** hospitals ~~in this State~~ **and centers**; requiring **those** hospitals **and centers** to submit certain information to the Department for the ~~program~~; ~~requiring similar information to be submitted by surgical centers for ambulatory patients; requiring that the information submitted by surgical centers for ambulatory patients be posted on the Internet website established and maintained by the Department under certain circumstances;~~ **programs**; **requiring the Department to make certain determinations before performing certain duties**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the planning for health care in this State, including the promotion of equal access to quality health care at a reasonable cost. (Chapter 439A of NRS) ~~Section~~ **Sections 3 and 4.3** of this bill ~~requires~~ **require** the Department of Health and Human Services to establish ~~the program~~ **programs** to increase public awareness of health care information concerning the hospitals **and surgical centers for ambulatory patients** in this State. The ~~program~~ **programs** must include the provision of information concerning the charges imposed and the quality of services provided by ~~the~~ **those** hospitals ~~in this State~~ **and centers**. **Sections 4 and 4.7** of this bill require the **Department to adopt regulations pertaining to the programs and require the** hospitals ~~in this State~~ **and centers** to submit the information for the ~~program and require~~ **programs**. **Section 5 of this bill requires** the Department to collect and maintain that information. Section 6 of this bill requires the Department to establish and maintain an Internet website which provides information to the general public concerning the charges imposed and the quality of services provided by the hospitals **and surgical centers for ambulatory patients** in this State. **Section 6.5 of this bill authorizes the Department to accept**

contributions to carry out the provisions of sections 2-7 of this bill. Section 6.5 also requires the Department to determine at the beginning of each biennium whether sufficient money is available to fund one or more components of the programs and duties of the Department relating to sections 2-7.

Under existing law, the Director of the Office for Consumer Health Assistance maintains an Internet website which includes certain information concerning prescription drug programs and pharmacies. (NRS 223.560) Section 14 of this bill requires the Director to include on the website a link to the website maintained by the Department of Health and Human Services to provide information to the general public concerning the charges imposed and the quality of services provided by the hospitals and surgical centers for ambulatory patients in this State.

~~[Section] Sections 15 and 16 of this bill [requires the Department to collect and maintain similar information relating to surgical centers for ambulatory patients. Section 16 also requires the Department to reconcile the data submitted from surgical centers for ambulatory patients with the information submitted by hospitals to ensure that a consumer is able to reasonably compare the two types of medical facility.] specify the dates on which the hospitals and surgical centers for ambulatory patients are required to commence submitting the information for the programs. Section 16 [further requires] also allows the Department to extend the deadline by which it must post this information [if] on its website if the Department [is able to adequately reconcile] reports to the Legislative Committee on Health Care that the [data] information submitted [is] is not ready for posting.~~

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.3 and ~~(2.7)~~ 2.9 of this act have the meanings ascribed to them in those sections.*

Sec. 2.3. *"Hospital" has the meaning ascribed to it in NRS 449.012.*

Sec. 2.7. ~~["Program" means the program that is established by the Department pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.] (Deleted by amendment.)~~

Sec. 2.9. "Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 3. 1. *The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers*

with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) ~~The charges imposed on inpatients by~~ Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) ~~The charges imposed on outpatients by each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;~~

~~(c)~~ The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to section 4 of this act;

~~((d))~~ (c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

~~((e))~~ (d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most ~~common medical diagnoses and treatments of~~ frequent diagnosis-related groups for inpatients and the 50 most common medical diagnoses and treatments for outpatients ~~that the Department determines are most useful for consumers; and~~

~~((f))~~ (e) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State ~~that the Department determines is useful~~ ;

(1) Useful to consumers ;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 4. 1. The Department shall, by regulation:

(a) Prescribe the information that each hospital in this State must submit to the Department for the program ~~as set forth in~~ established pursuant to section 3 of this act.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph ~~((e))~~ (b) of subsection 2 of section 3 of this act. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum and the Joint Commission ~~on~~ Accreditation of Healthcare Organizations;

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

↪ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to section 6 of this act.

(c) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) and (b) in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and section 3 of this act must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or section 3 of this act or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 4.3. 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to section 4.7 of this act;

(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to section 4.7 of this act;

(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

(e) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

Sec. 4.7. 1. The Department shall, by regulation:

(a) Prescribe the information that each surgical center for ambulatory patients in this State must submit to the Department for the program as set

forth in section 4.3 of this act and the form for submission of such information.

(b) Prescribe the measures of quality for surgical centers for ambulatory patients that are required pursuant to paragraph (b) of subsection 2 of section 4.3 of this act. In adopting the regulations, the Department shall:

(1) Use measures of quality which are substantially similar to those required pursuant to subparagraph (1) of paragraph (b) of subsection 1 of section 4 of this act;

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the surgical centers for ambulatory patients; and

(3) Take into consideration the financial burden placed on the surgical centers for ambulatory patients to comply with the regulations.

↪ The measures prescribed pursuant to this paragraph must report health outcomes of surgical centers for ambulatory patients, which do not necessarily correlate with the outpatient treatments posted on the Internet website pursuant to section 6 of this act.

(c) Require each surgical center for ambulatory patients to provide the information prescribed in paragraphs (a) and (b) in the format required by the Department.

(d) Prescribe which surgical centers for ambulatory patients in this State must participate in the program established pursuant to section 4.3 of this act.

2. The information required pursuant to this section and section 4.3 of this act must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a surgical center for ambulatory patients fails to submit the information required pursuant to this section or section 4.3 of this act or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the surgical center for ambulatory patients and to the Health Division of the Department.

Sec. 5. 1. The Department shall collect and maintain all information that it receives from the hospitals and surgical centers for ambulatory patients in this State pursuant to sections 3 ~~and 4~~ to 4.7, inclusive, of this act. Upon request, the Department shall make a summary of the information available ~~in printed form or an electronic format, as indicated by the requester,~~ to:

- (a) Consumers of health care;
- (b) Providers of health care;
- (c) Representatives of the health insurance industry; and
- (d) The general public.

2. The Department shall ensure that the information it provides pursuant to this section is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital ~~or~~ or of a surgical center for ambulatory patients.

Sec. 6. 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the ~~program~~ programs established pursuant to sections 3 and 4.3 of this act. The information must
~~: be presented in a manner that:~~

~~(a) Allows~~ Include, for each hospital in this State, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

~~[(b) Allows]~~

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

(1) Geographic location of each surgical center for ambulatory patients;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for ~~the~~ :

(1) The inpatients and outpatients of each hospital; and

~~[(c) Is]~~

(2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public ~~+~~ ; and

(g) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital; ~~and~~

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

~~(g)~~ Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, “diagnosis-related group” means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 6.5. 1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to sections 2 to 7, inclusive, of this act.

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3. The Department may accept any gift, donation, bequest, grant or other source of money for the purpose of carrying out the provisions of sections 2 to 7, inclusive of this act.

Sec. 7. In carrying out the provisions of sections 2 to 7, inclusive, of this act, the Department may contract with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and maintained by the Department pursuant to sections 2 to 7, inclusive, of this act. Such a contractor ~~shall not~~ may release or publish or otherwise use any information made available to it pursuant to the contract ~~except as required to carry out the provisions of sections 2 to 7, inclusive, of this act.~~ if the Department determines that the information is accurate.

Sec. 8. NRS 439A.020 is hereby amended to read as follows:

439A.020 The purposes of this chapter are to:

1. Promote equal access to quality health care at a reasonable cost;

2. Promote an adequate supply and distribution of health resources;
 3. Promote uniform, effective methods of delivering health care;
 4. Promote and encourage the adequate distribution of health and care facilities and man power;
 5. Promote and encourage the effective use of methods for controlling increases in the cost of health care;
 6. Encourage participation in health planning by members of the several health professions, representatives of institutions and agencies interested in the provision of health care and the reduction of the cost of such care, and the general public;
 7. Utilize the viewpoint of the general public for making decisions;
 8. ***Provide information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State;***
 9. Encourage public education regarding proper personal health care and methods for the effective use of available health services; and
 - ~~{9.}~~ 10. Promote a program of technical assistance to purchasers to contain effectively the cost of health care, including:
 - (a) Providing information to purchasers regarding the charges made by practitioners.
 - (b) Training purchasers to negotiate successfully for a policy of health insurance.
 - (c) Conducting studies and providing other information about measures to assist purchasers in containing the cost of health care.
- Sec. 9. (Deleted by amendment.)
- Sec. 10. (Deleted by amendment.)
- Sec. 11. NRS 449.485 is hereby amended to read as follows:
- 449.485 1. Each hospital in this State shall use for all patients discharged the form commonly referred to as the "UB-82," or a different form prescribed by the Director with the approval of a majority of the hospitals licensed in this State, and shall include in the form all information required by the Department.
2. ~~{The Department shall by regulation:~~
- ~~(a) Specify~~ ***Each hospital in this State shall, on a monthly basis, report to the Department*** the information required to be included in the form for each patient. ~~{; and~~
- ~~(b) Require each hospital to provide specified information from the form to the Department.}~~
3. Each insurance company or other payer shall accept the form as the bill for services provided by hospitals in this State.
4. Except as otherwise provided in subsection 5, each hospital ~~{with 100 or more beds}~~ ***in this State*** shall provide the information required pursuant to ~~{paragraph (b) of}~~ subsection 2 ~~{on magnetic tape or by other means}~~ ***in an electronic form*** specified by the Department. ~~{; or shall provide copies of the~~

~~forms and pay the costs of entering the information manually from the copies.]~~

5. The Director may exempt a hospital from the requirements of subsection 4 if requiring the hospital to comply with the requirements would cause the hospital financial hardship.

6. *The Department shall use the information submitted pursuant to this section for the program established pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.*

Sec. 12. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) The corporate home office allocation methodology of the hospital, if any.

(b) The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. For the purposes of this paragraph, "community benefits" includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

(c) A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without

health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

(d) A statement of its policies regarding patients' account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients' account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is authorized to review such information. ***The complete and current charge master must be made available to the Department, at the request of the Director, in an electronic format specified by the Department. The Department may use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in sections 2 to 7, inclusive, of this act, shall not release or publish the information contained in the charge master.***

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require the filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required, but he shall not require the submission of a final annual report sooner than 6 months after the close of the fiscal year, and may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive, are open to public inspection and must be available for examination at the office of the Department during regular business hours.

Sec. 13. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the corporate home office allocation methodologies of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance; ~~and~~

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals ~~}; and~~

(h) A summary of the status of the ~~{program that is}~~ programs established pursuant to ~~{section}~~ sections 3 and 4.3 of this act to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for ~~{that program}~~ those programs pursuant to section 6 of this act.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 14. NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; ~~and~~

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328 ~~[-]~~; **and**

(c) A link to the website established and maintained pursuant to section 6 of this act which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State.

Sec. 15. 1. Each hospital in this State shall, **for each patient discharged on and after** July 1, 2007, ~~begin submitting~~ **submit** to the Department of Health and Human Services the information concerning inpatient data required pursuant to sections ~~[2 to 7, inclusive]~~ **3 and 4** of this act.

2. The Department shall review the data concerning inpatients submitted by each hospital in this State and, on or before January 1, 2008, begin posting such information on the Internet website established pursuant to section 6 of this act.

3. Each hospital in this State shall, **for each patient discharged on and after** January 1, 2008, begin submitting to the Department the information concerning outpatient data that is required pursuant to sections ~~[2 to 7, inclusive]~~ **3 and 4** of this act.

4. The Department shall review the data concerning outpatients submitted by each hospital in this State and, **except as otherwise provided in this subsection**, on or before January 1, 2009, begin posting such information on the Internet website established pursuant to section 6 of this

act. **The Department shall, on or before December 1, 2008, report to the Legislative Committee on Health Care concerning the activities of the Department pursuant to this section and sections 3 and 4 of this act, including, without limitation, a report on whether the information concerning outpatients submitted pursuant to sections 3 and 4 of this act is ready for posting on the Internet website established pursuant to section 6 of this act. If the Department submits to the Legislative Committee on Health Care a report that such information is not ready for posting on the Internet website, the Legislative Committee on Health Care may extend the deadline by which the information must be posted.**

Sec. 16. 1. Each surgical center for ambulatory patients **in this State** shall, on January 1, 2008, ~~{and on a monthly basis thereafter,}~~ begin submitting to the Department of Health and Human Services ~~{all}~~ the information required by the Department pursuant to ~~{this section,}~~ **sections 4.3 and 4.7 of this act.**

2. ~~{The Department shall determine how best to reconcile the information submitted pursuant to this section with the information required from the hospitals in this State pursuant to sections 2 to 7, inclusive, of this act so that the information may be posted on the Internet website established pursuant to section 6 of this act in a manner which allows a consumer to reasonably compare the charges imposed and the quality of services provided by the surgical centers for ambulatory patients and the hospitals in this State.~~

~~3.}~~ **The Department shall ~~{}~~ review the data concerning outpatients submitted by each surgical center for ambulatory patients in this State and, on or before December 1, 2008, report to the Legislative Committee on Health Care concerning the activities of the Department pursuant to this section ~~{}~~ and sections 4.3 and 4.7 of this act, including, without limitation, a report on whether the Department ~~{was}~~ is able to adequately ~~{reconcile}~~ and accurately report the information submitted pursuant to ~~{this section with the information submitted pursuant to sections 2 to 7, inclusive, of this act,}~~ sections 4.3 and 4.7 of this act.** If the Department submits to the Legislative Committee on Health Care a report that the information collected pursuant to ~~{this section}~~ **sections 4.3 and 4.7 of this act** is not ready for posting on the Internet website ~~{or that the information cannot be adequately reconciled with the information submitted by the hospitals,}~~ **because it is not accurate or is incomplete,** the Legislative Committee on Health Care may extend the deadline by which the information must be posted pursuant to subsection ~~{4.}~~ **3.**

~~{4.}~~ **3.** Except as otherwise provided in subsection ~~{3.}~~ **2,** the Department shall, on January 1, 2009, begin posting the information received pursuant to ~~{this section}~~ **sections 4.3 and 4.7 of this act** on the Internet website established pursuant to section 6 of this act.

~~{5. The Department shall adopt regulations prescribing:~~

~~{a) The surgical centers for ambulatory patients in this State which must report information pursuant to this section.~~

~~(b) The information concerning the charges imposed and the quality of services provided by the surgical centers for ambulatory patients that must be submitted pursuant to this section, which must be similar to the information submitted by the hospitals pursuant to sections 2 to 7, inclusive, of this act.]~~

4. As used in this section, “surgical center for ambulatory patients” has the meaning ascribed to it in NRS 449.019.

Sec. 17. In addition to any other report required pursuant to this act or a state law, the Department of Health and Human Services shall submit to the Legislative Committee on Health Care, on or before the first day of each month, a report which includes:

1. The status of the collection of data pursuant to sections 2 to 7, inclusive, ~~and section 16~~ of this act;
2. The status of the establishment of an Internet website pursuant to section 6 of this act;
3. Any regulations adopted pursuant to sections 4 and ~~16~~ 4.7 of this act; and
4. Any other information related to carrying out the provisions of this act.

Sec. 18. **1.** The Department of Health and Human Services shall not send to the Health Division of the Department a notice required pursuant to subsection ~~2~~ 3 of section 4 of this act until:

- ~~1~~ **(a)** July 1, 2008, if the notice concerns the submission of information relating to inpatients ~~of~~ **of a hospital**; and
- ~~2~~ **(b)** January 1, 2009, if the notice concerns the submission of information relating to outpatients ~~of~~ **of a hospital**.

2. The Department of Health and Human Services shall not send to the Health Division of the Department a notice required pursuant to subsection 3 of section 4.7 of this act until January 1, 2009, if the notice concerns information submitted by a surgical center for ambulatory patients.

Sec. 19. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Assembly Bill No. 146.

Bill read third time.

Roll call on Assembly Bill No. 146:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Hardy—2.

Assembly Bill No. 146 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 232.

The following Senate amendment was read:

Amendment No. 1132.

SUMMARY—~~[Requires the Department of Health and Human Services to make available to consumers]~~ **Provides for** certain information relating to pharmacies and the prices of commonly prescribed prescription drugs ~~[to be made available to consumers.]~~ (BDR 40-856)

AN ACT relating to ~~[the Department of Health and Human Services; requiring the Department to make available to consumers]~~ **health; providing for** certain information relating to pharmacies and the prices of commonly prescribed prescription drugs ~~[to be made available to consumers; requiring the Department of Health and Human Services to make]~~ **perform certain activities and adopt** certain ~~[determinations before performing certain duties;]~~ **regulations; providing for the imposition of** an administrative penalty ~~[under certain circumstances;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill defines the term “pharmacy” for the purposes of the bill. As defined, the term excludes institutional pharmacies. (NRS 639.0085) Section 3 of this bill requires the ~~[Retail Association of Nevada or its successor to compile]~~ **organization that the Department of Health and Human Services determines to be the organization in the State with the largest membership of represented retail merchants, to prepare** a list of not less than 100 prescription drugs, ~~[and their]~~ **including** generic equivalents, that are most commonly prescribed to residents of this State.

~~[Sections 5-8]~~ **Section 4 of this bill requires certain pharmacies to provide certain contact information to the Department. Section 5 of this bill** ~~[require]~~ **requires** the Department ~~[of Health and Human Services to: (1) combine the contents of the list with usual and customary pricing information received from pharmacies that are licensed by the State Board of Pharmacy; and (2) present the combined information on the Department's]~~ **to present on its Internet website : (1) the contact information provided by the pharmacies to the Department; and (2) the usual and customary price that the pharmacies charge for the prescription drugs set forth on the list prepared pursuant to section 3, so that consumers may compare the prices currently being charged by those pharmacies for those prescription drugs. [By regulation, links to such information on the Department's website may be placed on the Internet websites of other persons and entities, including pharmacies and other governmental entities. Section 4 of this bill requires pharmacies that are licensed by the State Board of Pharmacy and located in the State of Nevada to provide to the Department, at least once each month, the usual and customary prices that the pharmacy charges for the**

~~prescription drugs on the list of most prescribed drugs compiled by the Retail Association of Nevada, as well as certain contact information for the pharmacy. Pharmacies that are licensed by the State Board of Pharmacy but located outside the State of Nevada may, but are not required to, provide such information.]~~ The Department is allowed to obtain the usual and customary prices charged by the pharmacies from claims reported by the pharmacies to the Medicaid program.

Section 6 of this bill requires the Department to ensure that the information is presented to consumers in such a manner that the prices charged by pharmacies for the relevant prescription drugs may be easily compared. Section 7 of the bill clarifies that the Department and its members, officers and employees are not liable in the event that information fails to be provided to consumers or in the event that incorrect information is provided to consumers. Section 8 of this bill requires the Department to adopt certain regulations.

Section 9 of this bill allows the Department to accept grants, donations, gifts and other public and private money to carry out the provisions of this bill. Section 9 also requires the Department to determine at the beginning of each fiscal year whether sufficient money is available to fund one or more components of the programs and duties of the Department relating to sections 2-10 of this bill ~~and~~ **and, if sufficient money is not available, to suspend temporarily a component of the programs for which money is lacking.**

Section 10 of this bill provides that if a pharmacy is required to provide information to the Department pursuant to section 4 and the pharmacy, without good cause, fails to do so or fails to do so in a timely manner, the Department may impose an administrative penalty of up to \$500 for each day on which such a failure occurs. ~~[This bill excludes institutional pharmacies from the application of its provisions.]~~

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, "pharmacy" means every store or shop licensed by the State Board of Pharmacy where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed. The term does not include an institutional pharmacy as defined in NRS 639.0085.*

Sec. 3. *The ~~[Retail Association of Nevada or its successor]~~ organization with the largest membership in this State which represents the interests of retail merchants, as determined by the Department, shall:*

1. ~~{Compile}~~ Prepare a list of not less than the 100 brand name prescription drugs or generic equivalents most commonly prescribed to residents of this State; and

2. ~~{Ensure that the list compiled pursuant to subsection 1 sets forth a separate entry for the generic equivalent, if any, of each brand name prescription drug included on the list; and~~

~~3.}~~ At least once each calendar ~~{quarter,}~~ year, update the list ~~{compiled}~~ prepared pursuant to subsection 1 and transmit the list to the Department.

Sec. 4. 1. Except as otherwise provided in subsections 2 and 3, each pharmacy shall, in accordance with the regulations adopted pursuant to section 8 of this act, provide to the Department:

(a) Information that a consumer may use to locate, contact or otherwise do business with the pharmacy, including, without limitation:

(1) The name of the pharmacy;

(2) The physical address of the pharmacy; and

(3) The phone number of the pharmacy;

(b) If the pharmacy maintains an electronic mail address, the electronic mail address of the pharmacy; and

(c) If the pharmacy maintains an Internet website, the Internet address of that website, ~~{; and~~

~~(d) Not less frequently than once each month:~~

~~(1) For each prescription drug that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the prescription drug; and~~

~~(2) For each generic equivalent that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the generic equivalent.}~~

2. If a pharmacy is not located within the State of Nevada, the pharmacy may, but is not required to, provide to the Department the information described in subsection 1.

3. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the parent company or corporation may provide to the Department the information described in subsection 1.

~~{ 4. As used in this section, "usual and customary price" means the usual and customary charges that a provider charges to the general public for a drug, as described in 42 C.F.R. § 447.331.}~~

Sec. 5. 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Place or cause to be placed on the Internet website maintained by the Department the information provided by each pharmacy pursuant to section 4 of this act;

(b) Ensure that the information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department is organized so that each individual pharmacy has its own separate entry on that website; and

(c) Ensure that the ~~pricing information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department;~~ usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to section 3 of this act and that is stocked by the pharmacy;

(1) Is presented on the Internet website maintained by the Department in a manner which complies with the requirements of section 6 of this act; and

(2) Is updated not less frequently than once each ~~month~~ calendar quarter.

↪ Nothing in this subsection prohibits the Department from determining the usual and customary price that a pharmacy charges for a prescription drug by extracting or otherwise obtaining such information from claims reported by pharmacies to the Medicaid program.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:

(a) In the form of paper records;

(b) Through the use of a telephonic system; or

(c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

4. As used in this section, “usual and customary price” means the usual and customary charges that a provider charges to the general public for a drug, as described in 42 C.F.R. § 447.331.

Sec. 6. 1. Except as otherwise provided in this section, the Department shall ensure that the list of prescription drugs ~~compiled~~ prepared pursuant to section 3 of this act and the information that pharmacies and the Department provide and obtain pursuant to ~~section~~ sections 4 and 5 of this act are combined and presented to consumers in such a manner that a consumer may easily compare the prices for particular prescription drugs, and their generic equivalents, that are currently charged by:

(a) Pharmacies located within the same city, county or zip code in which the consumer resides;

(b) Internet pharmacies; and

(c) Pharmacies that provide mail order service to residents of Nevada.

↪ The requirements of paragraphs (b) and (c) apply only to the extent that information regarding such pharmacies is made available to the Department.

2. As used in this section, "Internet pharmacy" has the meaning ascribed to it in NRS 639.00865.

Sec. 7. The Department and its members, officers and employees are not liable civilly or criminally for any act, omission, error or technical problem that results in:

1. The failure to provide to consumers information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list ~~[compiled]~~ prepared pursuant to section 3 of this act; or

2. The providing to consumers of incorrect information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list ~~[compiled]~~ prepared pursuant to section 3 of this act.

Sec. 8. The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 2 to 10, inclusive, of this act. Such regulations must provide for, without limitation:

1. Notice to consumers stating that:

(a) Although the Department will strive to ensure that consumers receive accurate information regarding pharmacies, including, without limitation, the prices charged by those pharmacies for the prescription drugs and generic equivalents that are on the list ~~[compiled]~~ prepared pursuant to section 3 of this act, the Department is unable to guarantee the accuracy of such information;

(b) If a consumer follows an Internet link from the Internet website maintained by the Department to an Internet website maintained by a pharmacy, the Department is unable to guarantee the accuracy of any information made available on the Internet website maintained by the pharmacy; and

(c) The Department advises consumers to contact a pharmacy directly to verify the accuracy of any information regarding the pharmacy which is made available to consumers pursuant to sections 2 to 10, inclusive, of this act;

2. Procedures adopted cooperatively with the Office of the Governor to direct consumers who have questions regarding the program described in sections 2 to 10, inclusive, of this act to contact the Office for Consumer Health Assistance in the Office of the Governor;

3. Provisions in accordance with which the Department will allow an Internet link to the information provided by each pharmacy pursuant to

section 4 of this act and made available on the Department's Internet website to be placed on other Internet websites managed or maintained by other persons and entities, including, without limitation, Internet websites managed or maintained by:

(a) ~~Pharmacies;~~

~~(b)~~ Other governmental entities, including, without limitation, the State Board of Pharmacy and the Office of the Governor; and

~~(c)~~ (b) Nonprofit organizations and advocacy groups;

4. Procedures pursuant to which consumers and pharmacies may report to the Department that information made available to consumers pursuant to sections 2 to 10, inclusive, of this act is inaccurate;

5. The form and manner in which pharmacies are to provide to the Department the information described in section 4 of this act; and

6. Standards and criteria pursuant to which the Department may remove from its Internet website information regarding a pharmacy or an Internet link to the Internet website maintained by a pharmacy, or both, if the Department determines that the pharmacy has:

(a) Ceased to be licensed and in good standing pursuant to chapter 639 of NRS; or

(b) Engaged in a pattern of providing to consumers information that is false or would be misleading to reasonably informed persons. ~~for~~

~~(c) Violated any state or federal law governing the practice of pharmacy.]~~

Sec. 9. 1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to sections 2 to 10, inclusive, of this act.

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3. The Department may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 10. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to section 4 of this act or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.

Sec. 11. NRS 639.2802 is hereby amended to read as follows:

639.2802 ~~[Prescription]~~ In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act, ~~prescription~~ price information

must be made available, upon request, by a pharmacist or practitioner who dispenses drugs.

Sec. 12. NRS 639.28025 is hereby amended to read as follows:

639.28025 ~~[Every]~~ ***In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act, every*** practitioner who dispenses drugs shall post on the premises in a place conspicuous to customers and easily accessible and readable by customers a notice, provided by the Board, advising customers that a price list of drugs and professional services is available to them upon request.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. This section and section 9 of this act become effective upon passage and approval.

2. Sections 1 to 8, inclusive, 10, 11 and 12 of this act become effective on October 1, 2007.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 232.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 619.

The following Senate amendment was read:

Amendment No. 1096.

SUMMARY—~~[Creates the Nevada Automobile Theft Authority.]~~ **Revises provisions governing the crime of grand larceny of a motor vehicle.** (BDR ~~[43-1503]~~ 15-1503)

AN ACT relating to motor vehicles; ~~[creating the Nevada Automobile Theft Authority within the Department of Motor Vehicles; providing the membership and duties of the Authority; creating the Fund for the Nevada Automobile Theft Authority; authorizing the Authority to award grants of money from the Fund to public agencies for programs to prevent motor vehicle theft; imposing certain reporting requirements on the Authority; imposing a fee on insurers that issue motor vehicle liability insurance in this State for deposit in the Fund;]~~ revising the provisions governing the crime of grand larceny of a motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 6 of this bill creates the Nevada Automobile Theft Authority within the Department of Motor Vehicles. The Authority consists of 13 voting members and the Director of the Department who serves as a nonvoting member. Section 8 of this bill describes the duties of the Authority, which include: (1) determining the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State; (2) analyzing various methods of reducing motor vehicle theft in this State; (3) developing and carrying out a plan to reduce motor vehicle theft in this~~

~~State; and (4) developing and carrying out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority. Section 9 of this bill creates the Fund for the Nevada Automobile Theft Authority in the State Treasury. Section 8 authorizes the Authority to award grants of money from the Fund to public agencies for programs that are designed to prevent motor vehicle theft in this State. Section 10 of this bill imposes on an insurer that issues policies of motor vehicle liability insurance in this State a semiannual fee of 50 cents for each vehicle insured under such a policy issued by the insurer in this State. The money collected from the fees must be deposited in the Fund. If an insurer fails to pay the required fee, the Commissioner of Insurance is authorized to refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State or to impose on the insurer a civil penalty of not more than 120 percent of the amount due, or both.] Under existing law, a person who commits grand larceny of a motor vehicle is guilty of a category C felony, unless the value of the motor vehicle involved in the grand larceny is proven to be \$2,500 or more in which case the person is guilty of a category B felony. (NRS 205.228) Section 12 of this bill provides that a person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence. For purposes of determining whether a person has twice previously been convicted of grand larceny of a motor vehicle, section 15 of this bill clarifies that offenses committed before October 1, 2007, must be included in such determination.~~

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

Section 1. ~~[Chapter 481 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 10, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 1.5. ~~[As used in sections 1.5 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 and 5 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 2. ~~["Authority" means the Nevada Automobile Theft Authority created by section 6 of this act.] (Deleted by amendment.)~~

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~["Fund" means the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.] (Deleted by amendment.)~~

Sec. 6. ~~[1. The Nevada Automobile Theft Authority is hereby created within the Department. The Authority consists of the following 13 voting members:~~

~~(a) The Commissioner of Insurance, or his designee, who is an ex officio member;~~

~~(b) The Director of the Department of Public Safety, or his designee, who is an ex officio member;~~

~~(c) The sheriff of a county whose population is 400,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(d) The sheriff of a county whose population is 100,000 or more but less than 400,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(e) The sheriff of a county whose population is less than 100,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(f) The chief of police of a city whose population is 100,000 or more or the undersheriff of a metropolitan police department which includes a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(g) The chief of police of a city whose population is less than 100,000 or the undersheriff of a metropolitan police department which does not include a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(h) The district attorney of a county whose population is 400,000 or more, appointed by the governing body of the Nevada District Attorneys Association;~~

~~(i) The district attorney of a county whose population is less than 400,000, appointed by the governing body of the Nevada District Attorneys Association;~~

~~(j) Two representatives of insurers that write motor vehicle liability insurance in this State, appointed by the Governor; and~~

~~(k) Two representatives of the general public, appointed by the Governor.~~

~~2. The Director of the Department of Motor Vehicles or his designee shall serve as a nonvoting member of the Authority.~~

~~3. The Director of the Department of Motor Vehicles shall serve as the Chairman of the Authority for the limited purpose of calling and conducting the initial meeting of the Authority. At its initial meeting and annually thereafter the voting members of the Authority shall elect a Chairman from among the voting members.~~

~~4. The Authority shall meet regularly at least quarterly and may meet at other times upon the call of the Chairman or a majority of the voting members of the Authority. Any seven voting members of the Authority constitute a quorum for the purpose of voting. A majority vote of the quorum is required to take action with respect to any matter.~~

~~5. The Authority shall adopt rules for its own management.~~

~~6. After their initial terms, the appointed members of the Authority shall serve terms of 4 years. An appointed member shall continue to serve on the~~

~~Authority until his successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the appointed membership of the Authority must be filled in the same manner as the original appointment. There is no limit on the number of terms that a member may serve.~~

~~7. Members of the Authority:~~

~~(a) Serve without compensation; and~~

~~(b) To the extent that money for the administrative expenses of the Authority is available in the Fund, while engaged in the business of the Authority, are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~8. The members of the Authority who are public employees must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Authority in the most timely manner practicable. The public employees may not be required to make up the time they are absent from work to fulfill their obligations as members of the Authority or take annual leave or compensatory time for the absence.] (Deleted by amendment.)~~

~~Sec. 7. [An appointed member of the Authority may be removed before the expiration of his term by the Governor if the Governor determines that the member:~~

~~1. Did not possess the qualifications to serve on the Authority at the time he was appointed;~~

~~2. Has ceased to possess the qualifications to serve on the Authority;~~

~~3. Will be unable to perform competently his duties for a substantial part of his remaining term because of illness or disability; or~~

~~4. Has been absent from more than one-half of the regularly scheduled meetings of the Authority during a calendar year and the absences have not been excused by a majority vote of the Authority.] (Deleted by amendment.)~~

~~Sec. 8. [1. To the extent of available existing resources, the Department shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space;~~

~~as is necessary for the Authority to carry out its duties.~~

~~2. To the extent that money for the administrative expenses of the Authority is available in the Fund, the Authority may:~~

~~(a) Provide for any administrative support, equipment and office space that is not provided by the Department; and~~

~~(b) Employ such staff members as it determines necessary, including, without limitation, an Executive Director. Such staff members serve at the pleasure of the Authority. If the Authority employs an Executive Director, his salary must not exceed \$75,000.~~

~~3. The Authority may:~~

~~(a) Apply for and accept grants and gifts for use in carrying out its duties; and~~

~~(b) Accept donations of goods and services for use in carrying out its duties, including, without limitation, the services of natural persons, office and secretarial assistance, printing and mailing services, and office equipment, facilities and supplies.~~

~~4.—The Authority shall:~~

~~(a) Determine the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State;~~

~~(b) Analyze various methods of reducing motor vehicle theft in this State;~~

~~(c) Develop and carry out a plan to reduce motor vehicle theft in this State; and~~

~~(d) Develop and carry out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority.~~

~~5.—The Authority may award grants of money from the Fund to public agencies for the purpose of establishing, maintaining and supporting programs that are designed to prevent motor vehicle theft in this State, including, without limitation:~~

~~(a) Financial support for law enforcement relating to, and prosecution of, motor vehicle theft, including, without limitation, equipment, work facilities and personnel for programs that are designed to increase the effectiveness of such law enforcement and prosecution.~~

~~(b) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.~~

~~6.—Grants of money awarded by the Authority pursuant to subsection 5 must be used to supplement and not replace money that would otherwise be expended by the recipient of the grant for the prevention of motor vehicle theft.~~

~~7.—The Authority shall, on or before December 31, 2009, and each year thereafter, submit a report concerning its activities during the immediately preceding fiscal year to the:~~

~~(a) Governor;~~

~~(b) Secretary of State;~~

~~(c) State Library and Archives Administrator; and~~

~~(d) Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.~~

~~8.—In addition to the reports required by subsection 7, the Authority shall, on or before February 15, 2011, and each odd-numbered year thereafter, submit a consolidated report concerning its activities during the immediately preceding 2 fiscal years to the Director of the Legislative Counsel Bureau for posting on the public website of the Legislature on the Internet and for transmittal to the:~~

~~(a) Speaker of the Assembly;~~

~~(b) Majority Leader of the Senate;~~

~~(c) Legislative Commission;~~
~~(d) Assembly Standing Committee on Judiciary;~~
~~(e) Senate Standing Committee on Judiciary;~~
~~(f) Assembly Standing Committee on Transportation; and~~
~~(g) Senate Standing Committee on Transportation and Homeland Security.] (Deleted by amendment.)~~

Sec. 9. ~~{1. The Fund for the Nevada Automobile Theft Authority is hereby created in the State Treasury.~~

~~2. The Authority shall administer the Fund.~~

~~3. All public and private money received for the use of the Authority must be deposited in the Fund.~~

~~4. The money in the Fund may only be used to pay the administrative expenses of the Authority and to carry out the provisions of sections 6 to 10, inclusive, of this act. Not more than 10 percent of the money in the Fund in any fiscal year may be used to pay the administrative expenses of the Authority.~~

~~5. The Authority shall cause an audit to be made of the Fund every 2 years. The audit must be conducted by the Audit Division of the Legislative Counsel Bureau. A copy of the audit must be submitted to the Governor and the Legislative Commission.] (Deleted by amendment.)~~

Sec. 10. ~~{1. Each insurer shall pay a semiannual fee of 50 cents for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State.~~

~~2. The fee for a vehicle becomes due and nonrefundable upon the acceptance by the insurer of any portion of the premium charged for the policy.~~

~~3. If an insurer chooses to collect the fee from its insureds, the insurer may include the fee on its billing statements for the payment of premiums and indicate the purpose of the fee.~~

~~4. Each insurer shall, on or before January 31 and July 31 of each year, pay to the Authority for deposit in the Fund the fees due pursuant to this section as follows:~~

~~(a) The payment due on or before January 31 must cover all vehicles that are insured by the insurer on October 31 of the immediately preceding calendar year.~~

~~(b) The payment due on or before July 31 must cover all vehicles that are insured by the insurer on April 30 of the calendar year in which the payment is due.~~

~~5. If an insurer fails to pay the fee required by this section on or before the date due, the Authority shall notify the Commissioner of Insurance of the nonpayment. Upon receiving notice of an insurer's failure to pay the fee, the Commissioner may, in accordance with the provisions of NRS 680A.190, refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State, or impose a civil penalty of not more than 120 percent of the amount due, or both. The insurer shall pay the civil~~

~~penalty together with the amount of fees due to the Commissioner, who shall deposit the civil penalty and fees in the Fund.~~

~~6. As used in this section:~~

~~(a) "Insurer" has the meaning ascribed to it in NRS 679A.100.~~

~~(b) "Vehicle" does not include any vehicle with a declared gross weight in excess of 26,000 pounds or any combination of vehicles with a gross combination weight rating in excess of 26,000 pounds. (Deleted by amendment.)~~

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in ~~[subsection 3.]~~ **this section**, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. **A person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.**

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

Sec. 13. ~~[Section 12 of this act is hereby amended to read as follows:~~

~~Sec. 12. NRS 205.228 is hereby amended to read as follows:~~

~~205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.~~

~~2. Except as otherwise provided in this section, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. A person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.~~

~~3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.~~

~~4.—In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle [to]:~~

~~(a) To pay restitution [.] and~~

~~(b) To pay a civil penalty of \$500 to the Nevada Automobile Theft Authority for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.] (Deleted by amendment.)~~

~~Sec. 14. [The members of the Nevada Automobile Theft Authority created by section 6 of this act must be appointed by their respective appointing authorities as soon as practicable after July 1, 2008, as follows:~~

~~1.—The members appointed pursuant to paragraphs (c), (d) and (e) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2012.~~

~~2.—The members appointed pursuant to paragraphs (f) and (g) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2011.~~

~~3.—The members appointed pursuant to paragraphs (h) and (i) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2010.~~

~~4.—The members appointed pursuant to paragraphs (j) and (k) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2009.] (Deleted by amendment.)~~

~~Sec. 15. The provisions of NRS 205.228, as amended by section 12 of this act, apply to offenses committed before October 1, 2007, for the purpose of determining whether a person is subject to the provisions of subsection 2 of NRS 205.228, as amended by section 12 of this act.~~

~~Sec. 16. [1.—Notwithstanding the provisions of section 10 of this act:~~

~~(a) The initial fee due from an insurer pursuant to section 10 of this act:~~

~~(1) Is payable on or before July 31, 2008, and must cover all vehicles that are insured by the insurer on April 30, 2008; and~~

~~(2) Must be paid to the Commissioner of Insurance for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.~~

~~(b) The Commissioner of Insurance may take any action specified in subsection 5 of section 10 of this act if the fee is not paid on or before July 31, 2008.~~

~~2.—The Director of the Department of Motor Vehicles may, on behalf of the Nevada Automobile Theft Authority, exercise all powers and duties of the Authority to the extent necessary until such time as the initial meeting of the Authority is held pursuant to section 6 of this act.] (Deleted by amendment.)~~

~~Sec. 17. [Notwithstanding any provision of law to the contrary, an insurer that is required pursuant to section 10 of this act to pay a fee for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State may begin collecting the fee from its insureds under those policies on April 30, 2008.] (Deleted by amendment.)~~

Sec. 18. ~~[1.— This section and sections 12 and 15 of this act become effective on October 1, 2007.~~

~~2.— Section 17 of this act becomes effective on January 1, 2008.~~

~~3.— Sections 1 to 11, inclusive, 13, 14 and 16 of this act become effective on July 1, 2008.] (Deleted by amendment.)~~

Assemblyman Ocegüera moved that the Assembly do not concur in the Senate Amendment No. 1096 to Assembly Bill No. 619.

Remarks by Assemblyman Ocegüera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1134.

SUMMARY—Revises provisions governing the crime of grand larceny of a motor **vehicle and an offense involving a stolen vehicle**. (BDR 15-1503)

AN ACT relating to motor vehicles; revising the provisions governing the crime of grand larceny of a motor vehicle; **revising the provisions governing an offense involving a stolen vehicle**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who commits grand larceny of a motor vehicle is guilty of a category C felony, unless the value of the motor vehicle involved in the grand larceny is proven to be \$2,500 or more in which case the person is guilty of a category B felony. (NRS 205.228) Section 12 of this bill provides that a person who is convicted of grand larceny of a motor vehicle and who has ~~twice~~ previously been convicted of grand larceny of a motor vehicle **or an attempt to commit grand larceny of a motor vehicle** must not be released on probation or granted a suspension of his sentence. For purposes of determining whether a person has ~~twice~~ previously been convicted of grand larceny of a motor vehicle ~~or~~ **or an attempt to commit grand larceny of a motor vehicle**, section 15 of this bill clarifies that offenses committed before October 1, 2007, must be included in such determination.

Under existing law, a person who commits an offense involving a stolen vehicle is guilty of a category C felony, unless the value of the stolen vehicle is \$2,500 or more in which case the person is guilty of a category B felony. (NRS 205.273) Section 12.5 of this bill provides that a person who is convicted of an offense involving a stolen vehicle and who has previously been convicted of an offense involving a stolen vehicle or an attempt to commit an offense involving a stolen vehicle must not be released on probation or granted a suspension of his sentence. For purposes of determining whether a person has previously been convicted of an offense involving a stolen vehicle or an attempt to commit an offense involving a stolen vehicle, section 15 of this bill clarifies that offenses committed before October 1, 2007, must be included in such determination.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in ~~subsection 3,~~ **this section**, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. ***A person who is convicted of grand larceny of a motor vehicle and who has ~~twice~~ previously been convicted of grand larceny of a motor vehicle or an attempt to commit grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.***

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

Sec. 12.5. NRS 205.273 is hereby amended to read as follows:

205.273 1. A person commits an offense involving a stolen vehicle if the person:

(a) With the intent to procure or pass title to a motor vehicle which he knows or has reason to believe has been stolen, receives or transfers possession of the vehicle from or to another person; or

(b) Has in his possession a motor vehicle which he knows or has reason to believe has been stolen.

2. The provisions of subsection 1 do not apply to an officer of the law if the officer is engaged in the performance of his duty as an officer at the time of the receipt, transfer or possession of the stolen vehicle.

3. Except as otherwise provided in ~~[subsection 4.]~~ **this section**, a person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130. **A person who is convicted of an offense involving a stolen vehicle and who has previously been convicted of an offense involving a stolen vehicle or an attempt to commit an offense involving a stolen vehicle must not be released on probation or granted a suspension of his sentence.**

4. If the prosecuting attorney proves that the value of the vehicle involved is \$2,500 or more, the person who violated the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

5. In addition to any other penalty, the court shall order the person to pay restitution.

6. For the purposes of this section, the value of a vehicle shall be deemed to be the highest value attributable to the vehicle by any reasonable standard.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. The **amendatory** provisions of ~~[NRS 205.228, as amended by section 12 of]~~ this act ~~[,]~~ apply to offenses committed before October 1, 2007, for the purpose of determining whether a person is subject to the provisions of subsection 2 of NRS 205.228 ~~[,]~~ **or subsection 3 of NRS 205.273**, as amended by ~~[section 12 of]~~ this act.

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Assemblyman Ocegüera moved that the Assembly do not concur in the Senate Amendment No. 1134 to Assembly Bill No. 619.

Remarks by Assemblyman Ocegüera.

Motion carried.

Bill ordered transmitted to the Senate.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 43, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 840 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 21, which is attached to and hereby made a part of this report.

KELVIN ATKINSON

DAVID BOBZIEN

JOHN CARPENTER

Assembly Conference Committee

DENNIS NOLAN

JOHN LEE

Senate Conference Committee

Conference Amendment No. CA21.

AN ACT relating to traffic laws; prohibiting a person from organizing an unauthorized speed contest on a public highway; increasing the penalty for driving a vehicle in willful or wanton disregard of the safety of persons or property; increasing the penalty for driving a vehicle in an unauthorized speed contest on a public highway; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who drives a vehicle in willful or wanton disregard of the safety of persons or property or who drives a vehicle in an unauthorized speed contest on a public highway is guilty of a misdemeanor and may be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment. In lieu of all or a part of the punishment, the convicted person may be sentenced to perform a fixed period of community service. (NRS 193.150, 484.377) Section 3 of this bill increases the penalty for committing either offense by establishing, in addition to the possibility of imprisonment in the county jail, a minimum fine of \$250 for the first offense, \$1,000 for the second offense and \$1,500 for the third and each subsequent offense. A person convicted of driving a vehicle in an unauthorized speed contest on a public highway is also required to perform a minimum number of hours of community service. In addition to any fine, community service and imprisonment imposed upon a person convicted of driving a vehicle in an unauthorized speed contest on a public highway, the court must issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and, for the first offense, ~~must~~ **may** issue an order impounding for 15 days any vehicle registered to the person convicted of such an offense if the vehicle is used in the commission of the offense. For the second and each subsequent offense, the court must issue an order impounding for 30 days any vehicle registered to the person convicted of such an offense if the vehicle is used in the commission of the offense. Section 3 also prohibits a person from organizing an unauthorized speed contest on a public highway and imposes the same penalties for such a violation as for a person who drives a vehicle in an unauthorized speed contest on a public highway.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection ~~[2]~~ 5 of NRS 484.377.

(2) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792.

(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➔ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume upon completion of the period of imprisonment or when the person is placed on residential confinement.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

➡ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484.3943:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which he is not eligible for a license, if he was convicted of:

(I) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of

intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(II) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792;

(2) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of a violation of subsection ~~{2}~~ 5 of NRS 484.377; or

(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484.3943, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both; or
- (b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both;
- (b) To receive regularly scheduled medical care for himself or a member of his immediate family; or
- (c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

- (a) A violation of NRS 484.379, 484.3795 or 484.384;
- (b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

↪ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 3. NRS 484.377 is hereby amended to read as follows:

484.377 1. It is unlawful for a person to:

(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.

(b) Drive a vehicle in an unauthorized speed contest on a public highway.

(c) Organize an unauthorized speed contest on a public highway.

↪ A violation of **paragraph (a) or (b) of** this subsection or subsection 1 of NRS 484.348 constitutes reckless driving.

2. **A person who violates paragraph (a) of subsection 1 is guilty of a misdemeanor and:**

(a) For the first offense, shall be punished:

(1) By a fine of not less than \$250 but not more than \$1,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

(1) By a fine of not less than \$1,000 but not more than \$1,500; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

(1) By a fine of not less than \$1,500 but not more than \$2,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

3. **A person who violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor and:**

(a) For the first offense:

(1) Shall be punished by a fine of not less than \$250 but not more than \$1,000;

(2) Shall perform not less than 50 hours, but not more than 99 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense:

(1) Shall be punished by a fine of not less than \$1,000 but not more than \$1,500;

(2) Shall perform not less than 100 hours, but not more than 199 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense:

(1) Shall be punished by a fine of not less than \$1,500 but not more than \$2,000;

(2) *Shall perform 200 hours of community service; and*

(3) *May be punished by imprisonment in the county jail for not more than 6 months.*

4. *In addition to any fine, community service and imprisonment imposed upon a person pursuant to subsection 3, the court ~~shall~~*

~~(a) Issue~~ :

(a) Shall issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person;

(b) Within 5 days after issuing an order pursuant to paragraph (a), shall forward to the Department any licenses, together with a copy of the order;

(c) For the first offense, may issue an order impounding, for a period of 15 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense; and

(d) For the second and each subsequent offense, shall issue an order impounding, for a period of 30 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense.

5. Unless a greater penalty is provided pursuant to subsection 4 of NRS 484.348, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years ~~[or]~~ *and* by a fine of not *less than \$2,000 but not* more than \$5,000. ~~[or by both fine and imprisonment.]~~

~~[3.]~~ 6. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484.3667 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484.348.

7. *As used in this section, "organize" means to plan, schedule or promote, or assist in the planning, scheduling or promotion of, an unauthorized speed contest on a public highway, regardless of whether a fee is charged for attending the unauthorized speed contest.*

Assemblyman Atkinson moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 43.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 595.

The following Senate amendment was read:

Amendment No. 1124.

AN ACT relating to vehicles; making various changes regarding the imposition, reporting, payment, collection, refunding, administration and enforcement of certain taxes on fuels; providing for the issuance of bonds by the county fair and recreation board in certain counties to assist in the funding of highway projects in the county; allocating a portion of the proceeds of certain taxes and fees to the construction and maintenance of public highways; requiring analyses of the costs and benefits of proposals for certain highway projects; requiring annual performance measurements of and various periodic reports by the Department of Transportation; revising the provisions governing the fees charged by a short-term lessor of a passenger car; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a taxpayer is entitled to receive interest on an overpayment of taxes. (NRS 360.2935, 360A.110) Section 2 of this bill provides that no interest will be paid on an overpayment of taxes on fuels if the overpayment is made intentionally or carelessly.

Under existing law, if the Department of Motor Vehicles issues a deficiency determination against a taxpayer for underpayment of taxes on fuels, the taxpayer may file a petition for redetermination and seek an oral hearing on the petition. (NRS 360A.160, 360A.180) Section 3 of this bill changes the hearing to an administrative hearing.

Under existing law, persons licensed under chapter 365 of NRS are required to submit reports and pay excise taxes to the Department for motor vehicle and other fuels subject to that chapter. (NRS 365.170, 365.175) Section 5 of this bill imposes similar requirements on unlicensed persons who collect such excise taxes.

Existing law in chapter 366 of NRS concerning taxes on special fuels includes provisions relating to the confidentiality of records, the unlawful disclosure of information, false or fraudulent reports, and the sealing of fuel pumps. (NRS 366.160, 366.180, 366.710, 366.715) Sections 6-9 of this bill add similar provisions to chapter 365 of NRS concerning taxes on motor vehicle and other fuels.

Under existing law, licenses issued pursuant to chapter 365 of NRS for dealers, suppliers, transporters and exporters are valid until suspended, revoked or cancelled. (NRS 365.304) Section 15 of this bill limits the validity of each such license to 1 year and requires the Department to adopt regulations providing for the renewal of such licenses.

Existing law in chapter 366 of NRS concerning taxes on special fuels includes provisions governing the due date of such taxes. (NRS 366.370) Section 18 of this bill adds similar provisions to chapter 365 of NRS concerning taxes on motor vehicle and other fuels. (NRS 365.330)

Section 21 of this bill increases the power of the Department and its agents to make examinations and inspections, including the power to stop and inspect motor vehicles that are using or transporting motor vehicle and other

fuels, to determine whether all excise taxes due pursuant to chapter 365 of NRS are being properly reported and paid. (NRS 365.500)

Under existing law, persons licensed under chapter 366 of NRS are required to file tax returns and pay excise taxes to the Department for special fuels subject to that chapter. (NRS 366.380, 366.383, 366.386, 366.540) Section 26 of this bill imposes similar requirements on unlicensed persons who collect such excise taxes.

Existing law in chapter 365 of NRS concerning taxes on motor vehicle and other fuels includes provisions relating to the liability of a person for willfully failing to collect or pay excise taxes, the records that must be maintained by retailers, the payment of the costs of prosecuting violations, and the enforcement of the provisions of the chapter by county sheriffs and other peace officers. (NRS 365.351, 365.510, 365.590, 365.610) Sections 27-30 of this bill add similar provisions to chapter 366 of NRS concerning taxes on special fuel.

Under existing law, licenses issued pursuant to chapter 366 of NRS for special fuel dealers, special fuel suppliers, special fuel transporters and special fuel exporters are valid until suspended, revoked or cancelled, and licenses for special fuel users are valid for 1 year. (NRS 366.260) Section 36 of this bill limits the validity of each such license to 1 year and requires the Department to adopt regulations providing for the renewal of such licenses.

Section 46 of this bill revises the provisions in NRS 366.720 that establish various violations and penalties relating to taxes on special fuels by specifying that each day during which such a violation occurs constitutes a separate offense.

Section 46.5 of this bill requires the county fair and recreation board in a county whose population is 400,000 or more (currently Clark County) to issue, under certain conditions, bonds to assist in the funding of highway projects in that county. Section 55.3 of this bill requires annual reports by the Department of Transportation on the projects undertaken with that funding.

Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per \$100 of the assessed valuation of the county. (NRS 354.59815) Section 47 of this bill requires the allocation of an incrementally increasing portion, which will not exceed 60 percent, of the proceeds of any such tax imposed in a county with a population of 100,000 or more (currently Clark and Washoe Counties) to the State Highway Fund for use in the construction and maintenance of the public highways in that county.

Section 47.2 of this bill requires the adoption of performance measurements for the Department of Transportation and annual reports of performance. Section 47.3 of this bill requires the Department to prepare a written analysis of the costs and benefits of each proposal for a highway project that will cost \$25 million or more. Section 55.5 of this bill requires quarterly reports by the Department on the status of certain proposed highway projects.

Existing law authorizes a short-term lessor of a passenger car to impose a recovery surcharge of 4 percent of the total amount for which the car is leased. (NRS 482.313) Section 49 of this bill mandates the imposition of that fee and requires the deposit of one-quarter of the proceeds thereof into the State Highway Fund for use in the construction and maintenance of the public highways.

Existing law prescribes a maximum amount of \$15 per day that a short-term lessor of vehicles may charge for a waiver of damages. (NRS 482.31565) Section 49.5 of this bill increases that amount to \$22 and provides for subsequent annual increases in that amount based upon increases in the Consumer Price Index.

Existing law prescribes a maximum amount of \$5 per day that a short-term lessor of vehicles may charge for more than one additional driver. (NRS 482.3158) Section 49.7 of this bill increases that amount to \$10, provides for subsequent annual increases in that amount based upon increases in the Consumer Price Index and authorizes the imposition of the charge for any additional drivers.

Existing law authorizes a purchaser of motor vehicle fuel or special fuel from a supplier to apply to the Department for a permit to defer payment of the taxes to the supplier, and authorizes the supplier to deduct from his tax payments to the Department the amount of such deferred taxes. (NRS 365.326, 365.328, 366.397, 366.540) Sections 42 and 55 of this bill delete or repeal those provisions. Section 55 also repeals NRS 366.360 because its provisions are being added to NRS 366.350 by section 38 of this bill.

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

Section 1. NRS 360A.050 is hereby amended to read as follows:

360A.050 ~~[Except for any payments authorized pursuant to NRS 365.328, 365.340, 366.375 and 366.397, if]~~ If the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.

Sec. 2. NRS 360A.110 is hereby amended to read as follows:

360A.110 ~~[In]~~

1. Except as otherwise provided in subsection 2, in making a determination, the Department may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods or against penalties and the interest on underpayments.

2. No interest is allowed on any overpayment that the Department determines has been made intentionally or by reason of careless reporting.

Sec. 3. NRS 360A.180 is hereby amended to read as follows:

360A.180 1. If a petition for redetermination is filed within the period prescribed in NRS 360A.160, the Department shall reconsider the determination and, if the person has so requested in the petition, grant the person an ~~oral~~ **administrative** hearing and give him at least 10 days' notice of the time and place of the hearing.

2. ~~[The Department may continue the]~~ **Any hearing held pursuant to subsection 1 may be continued** from time to time as may be necessary.

3. **A petitioner aggrieved by the decision of the Department may appeal the decision by submitting a written request to the Department for an administrative hearing not more than 30 days after notice of the redetermination was made by the Department.**

Sec. 4. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9, inclusive, of this act.

Sec. 5. **Every person not licensed pursuant to this chapter who collects an excise tax shall:**

1. **Not later than the last day of each calendar month, submit a statement to the Department of all such taxes collected during the preceding calendar month; and**

2. **In accordance with the provisions of NRS 365.330, pay the tax to the Department.**

Sec. 6. **All supporting schedules, invoices and other pertinent papers relating to the business affairs and operations of any supplier, dealer, exporter or transporter, and any information obtained by an investigation of the records and equipment of any supplier, dealer, exporter or transporter, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by law.**

Sec. 7. 1. **It is unlawful for the Department or any person having an administrative duty under this chapter to divulge or to make known in any manner whatever the business affairs, operations or information obtained by an investigation or examination of the records of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any report, or to permit any report or copy thereof to be seen or examined by any person except as otherwise provided in section 6 of this act and NRS 365.140.**

2. **Any violation of the provisions of subsection 1 is a gross misdemeanor.**

Sec. 8. **Any person required to make, submit, sign or verify any report who makes any false or fraudulent report with intent to defeat or evade the assessment required by law to be made is guilty of a gross misdemeanor.**

Sec. 9. 1. **The Department may seal a fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, if the retailer, dealer or supplier:**

(a) *Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;*

(b) *Operates without the license required by the provisions of this chapter; or*

(c) *Operates without the bond or cash deposit required by the provisions of this chapter.*

2. *A fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.*

3. *Before sealing a fuel pump or the metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the retailer, dealer or supplier at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.*

Sec. 10. NRS 365.092 is hereby amended to read as follows:

365.092 "Transporter" means a person, except a supplier or an exporter licensed pursuant to this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft **by pipeline, rail or truck** in interstate commerce to or from any point within this State, or solely within this State.

Sec. 11. NRS 365.140 is hereby amended to read as follows:

365.140 The Department ~~{shall,}~~ **may**, upon a request from the officials to whom is entrusted the enforcement of the motor vehicle fuel tax laws of any other state, if the other state furnishes ~~{like}~~ **similar** information to this State, forward any information which it may have in its possession relative to the manufacture, receipt, **storage, delivery**, sale, use, transportation, ~~{or}~~ shipment **or other disposition** by any **supplier, dealer, exporter, transporter or other** person of motor vehicle fuel or fuel for jet or turbine-powered aircraft.

Sec. 12. NRS 365.170 is hereby amended to read as follows:

365.170 Except as otherwise provided in NRS 365.135, every dealer shall ~~{, not}~~ :

1. **Not** later than the last day of each calendar month ~~{:~~

~~1.—Render}~~, **submit** to the Department a statement of all aviation fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by him in this State, as well as all such fuel sold, distributed or used in this State by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon pursuant to NRS 365.020, during the preceding calendar month; and

2. ~~{Pay}~~ **In accordance with the provisions of NRS 365.330, pay** an excise tax on:

(a) All fuel for jet or turbine-powered aircraft in the amount of 1 cent per gallon, plus any applicable amount imposed pursuant to NRS 365.203; and

(b) Aviation fuel in the amount of 2 cents per gallon, plus any applicable amount imposed pursuant to NRS 365.203,

↪ so sold, distributed or used . ~~{, in the manner and within the time prescribed in this chapter.}~~

Sec. 13. NRS 365.175 is hereby amended to read as follows:

365.175 Except as otherwise provided in NRS 365.135, every supplier shall ~~{, not}~~ :

1. **Not** later than the last day of each calendar month ~~{:~~

~~1. — Submit}~~ , **submit** to the Department a statement of all motor vehicle fuel, except aviation fuel, sold, distributed or used by him in this State ~~{;}~~ **during the preceding calendar month;** and

2. ~~{Pay}~~ **In accordance with the provisions of NRS 365.330, pay** an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of 17.65 cents per gallon **so** sold, distributed or used . ~~{in the manner prescribed in this chapter.}~~

Sec. 14. NRS 365.290 is hereby amended to read as follows:

365.290 1. Before granting any application for a license as a dealer or supplier, the Department shall require the applicant to file with the Department a bond executed by the applicant as principal, and by a corporation qualified under the laws of this State as surety, payable to this State and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and other obligations of the applicant as a dealer or supplier.

2. The total amount of the bond or bonds required of any dealer or supplier must be fixed by the Department at three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, or \$1,000, whichever is greater. If ~~{the Department determines that}~~ a person is habitually delinquent in the payment of amounts due pursuant to this chapter, ~~{it}~~ **the Department** may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100, within the same upper limit.

3. The Department may increase or decrease the amount of security required by this section subject to the limitations provided in this section.

4. No recovery on any bond, ~~{nor the}~~ execution of any new bond, ~~{nor the}~~ **or** revocation, cancellation or suspension of any license , affects the validity of any bond.

5. In lieu of any bond or bonds, a dealer or supplier may deposit with the Department, under such terms and conditions as the Department may prescribe, ~~{a like}~~ **an equivalent** amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

6. *If the amount of security required by this section is decreased pursuant to subsection 3, the Department shall immediately reinstate the original requirements for a bond for a holder of a license as a dealer or supplier upon his:*

(a) Lack of faithful performance of the requirements of this chapter; or
(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. *For the purposes of this section, a person is “habitually delinquent” if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:*

(a) Fails timely to file a monthly tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 15. NRS 365.304 is hereby amended to read as follows:

365.304 1. A license issued pursuant to this chapter:

~~{1.}~~ (a) Is valid ~~until~~ **for 1 year, unless** suspended, revoked or cancelled.

~~{2.}~~ (b) Is not transferable.

2. ***The Department shall adopt regulations providing for the renewal of such licenses.***

Sec. 16. NRS 365.306 is hereby amended to read as follows:

365.306 If any person ceases to be a dealer, supplier, exporter or transporter within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him pursuant to this chapter.

3. If he is:

(a) A dealer, file a monthly tax return and pay all taxes, interest and penalties required pursuant to chapter 360A of NRS and NRS 365.170 and 365.203 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A supplier, file a monthly tax return and pay all taxes, interest and penalties required pursuant to chapter 360A of NRS and NRS 365.175 to 365.192, inclusive, on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) An exporter, file the report required pursuant to NRS 365.515 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A transporter, file the report required pursuant to NRS 365.520 ~~[within 25 days after the end]~~ **on or before the last day** of the month **following the month** of the discontinuance, sale or transfer of the business.

Sec. 17. NRS 365.324 is hereby amended to read as follows:

365.324 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ **subsection 2**, each supplier who sells or distributes motor vehicle fuel, other than aviation fuel, shall, at the time the motor vehicle fuel is distributed from a terminal, collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive.

2. ~~[A supplier may sell motor vehicle fuel, other than aviation fuel, to a purchaser without collecting the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel:~~

~~(a) Has been issued a permit by the Department pursuant to NRS 365.328; and~~

~~(b) Elects to defer payment of the taxes.~~

~~3.]~~ A supplier shall not collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel is:

(a) A supplier; or

(b) An exporter.

3. A supplier or exporter shall not purchase motor vehicle fuel on which the tax has been paid, except that a newly licensed supplier or exporter may purchase such fuel during its first month of operation.

4. A supplier who sells motor vehicle fuel, other than aviation fuel, to any other supplier shall keep such records of the transaction as the Department may require. The Department shall adopt regulations setting forth:

(a) The records which must be kept by ~~[the dealer]~~ **a supplier** pursuant to this subsection; and

(b) The period for which those records must be kept. ~~[by the dealer.]~~

Sec. 18. NRS 365.330 is hereby amended to read as follows:

365.330 1. The excise taxes ~~[prescribed in]~~ **imposed by** this chapter ~~[must be paid on or before the last day of each calendar month to the Department.]~~ **are due on or before the last day of the first month following the month to which they relate.**

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. The Department shall deliver the taxes to the State Treasurer, who shall provide ~~{to the dealer, supplier or user}~~ a receipt for the payment of the taxes ~~+~~

~~2.}~~ **to the person who made the payment.**

5. Except as otherwise provided in subsection ~~{3.}~~ 6:

(a) From the tax found to be due upon any statement submitted by a dealer pursuant to NRS 365.170, the dealer may retain an amount equal to 2 percent of the amount of the tax collected to cover the dealer's costs of collection of the tax and of compliance with this chapter, and the dealer's handling losses occasioned by evaporation, spillage or other similar causes.

(b) Each supplier may retain an amount equal to 2 percent of the amount of the tax collected by the supplier to cover the supplier's costs of collection of the tax and of compliance with this chapter, and the supplier's handling losses occasioned by evaporation, spillage or other similar causes.

~~{3.}~~ 6. A dealer or supplier who fails to submit a tax return when due pursuant to this chapter or fails to pay the tax when due pursuant to this chapter is not entitled to retain any of the amount authorized pursuant to subsection ~~{2.}~~ 5 for any month for which a tax return is not filed when due or a payment is not made when due.

~~{4.}~~ 7. If the Department determines that a dealer or supplier, **or any unlicensed person who collects an excise tax**, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the dealer, ~~for~~ supplier **or unlicensed person** to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The dealer, ~~for~~ supplier **or unlicensed person** shall comply with the order immediately upon receiving notification of the order from the Department.

Sec. 19. NRS 365.340 is hereby amended to read as follows:

365.340 1. If the amount of any excise tax for any month is not paid to the State on or before the ~~{last day of the next month,}~~ **date due**, it becomes delinquent at the close of business on that day. ~~{A dealer, supplier or user may have up to 15 additional days to make the payment if he makes written application to the Department on or before the day the payment is due and the Department finds good cause for the extension.}~~

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.

Sec. 20. NRS 365.370 is hereby amended to read as follows:

365.370 Any person who exports any motor vehicle fuel or fuel for jet or turbine-powered aircraft from this State, or who sells any such fuel to the United States Government for official use of the United States Armed Forces, or who buys and uses any such fuel for purposes other than for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the customer or

indirectly by the addition of the amount of the tax to the price of the fuel, must be reimbursed and repaid the amount of the tax so paid by him , except as follows:

1. ~~{Refund claims}~~ **Claims for refunds** must be paid by prescribed classes in accordance with the ~~{department's regulations.}~~ **regulations of the Department.**

2. The minimum claim for **a** refund must be based on at least 200 gallons **of such fuel** purchased ~~{and used}~~ **in this State within** a 6-month period ~~{,}~~ **which is used for a purpose that is exempt from payment of the excise taxes imposed by this chapter.**

3. No refund of motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this State for recreational purposes.

4. A person who exports, sells, buys or uses aviation fuel for any purpose is not entitled to reimbursement of any tax paid by him on such fuel.

Sec. 21. NRS 365.500 is hereby amended to read as follows:

365.500 1. Every dealer, supplier, exporter and transporter shall cause to be kept a true record, in such form as may be prescribed or approved by the Department, of all stocks of motor vehicle fuel and fuel for jet or turbine-powered aircraft and of other inflammable or combustible liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, exportations, transportations, use, sales and distribution thereof.

2. The **Department or its authorized agents may:**

(a) **Examine the books, records, papers and equipment of any dealer, supplier, exporter or transporter of such fuel or liquids, or of any other person transporting or storing such fuel or liquids;**

(b) **Investigate the character of the disposition which any person makes of such fuel or liquids; and**

(c) **Stop and inspect a motor vehicle that is using or transporting such fuel or liquids,**

↪ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

3. **Books and** records ~~{are subject to inspection at all times within business hours by the Department or its authorized agents, and}~~ **subject to examination pursuant to subsection 2** must remain available for ~~{inspection}~~ **examination** for a period of 4 years after the date of any entry therein.

~~{3.}~~ 4. If a dealer, supplier, exporter or transporter wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where

the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any dealer, supplier, exporter or transporter in any year.

~~{4.}~~ 5. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

~~{5.}~~ 6. Upon the demand of the Department, each dealer, supplier, exporter or transporter shall furnish a statement showing the contents of the **books and** records to such extent and in such detail and form as the Department may require.

Sec. 22. NRS 365.520 is hereby amended to read as follows:

365.520 1. Every transporter, except a dealer licensed under this chapter or a wholesale distributor transporting the products of a dealer licensed under this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft in interstate commerce to or from any point within this State, or solely within this State, shall report all ~~{of}~~ those deliveries to the Department.

2. A report must be made for each calendar month and must be filed ~~{within 25 days after the end of the month for which the report is made.}~~ **not later than the last day of each month for the deliveries made during the preceding month.** The report must show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made.

(b) The date of every delivery.

(c) The amount of every delivery in gallons.

(d) Such other information as the Department may require.

Sec. 23. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity;
or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to chapter 373 of NRS, from the proceeds of the tax imposed pursuant to ~~subparagraph (1) of paragraph (b) of subsection 1~~ **paragraph (a) of subsection 2** of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to NRS 373.1161;

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 24. NRS 365.575 is hereby amended to read as follows:

365.575 An exporter shall not sell or distribute motor vehicle fuel ~~[- other than aviation fuel,]~~ in this State. An exporter who violates the provisions of this section:

1. Is guilty of a misdemeanor; and

2. Shall, within the period prescribed in NRS ~~[365.175,]~~ **365.330**, pay to the Department the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, on all motor vehicle fuel ~~[- other than aviation fuel,]~~ sold or distributed in this State.

Sec. 25. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 30, inclusive, of this act.

Sec. 26. *Every person not licensed pursuant to this chapter who collects an excise tax shall, not later than the last day of each calendar month, file with the Department a tax return upon which is reported all such taxes collected during the preceding calendar month and, in accordance with the provisions of NRS 366.370, pay the tax to the Department.*

Sec. 27. 1. *A responsible person who willfully fails to collect or pay to the Department the tax imposed by this chapter or who willfully attempts to evade the payment of the tax is jointly and severally liable with the special fuel dealer or special fuel supplier for the tax owed, plus interest and all applicable penalties. The responsible person shall pay the tax upon notice from the Department that it is due.*

2. *As used in this section, "responsible person" includes:*

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company, whose job or duty it is to collect, account for or pay to the Department the tax imposed by this chapter.

Sec. 28. 1. *Every retailer shall maintain and keep within the State for a period of 4 years a true record of special fuel received, the price thereof and the name of the person who supplied the special fuel, together with delivery tickets, invoices and such other records as the Department may require.*

2. *Such records are subject to inspection by the Department or its authorized agents at all times during business hours.*

Sec. 29. *The Department is authorized to have paid out of the State Highway Fund all expenses incurred in the prosecution before any court of this State of any person charged with the violation of any provision of this chapter.*

Sec. 30. *County sheriffs and all other peace officers and traffic officers of this State shall, without further compensation, assist in the enforcement of this chapter, and make arrests for that purpose when requested by the Department or its duly authorized agents.*

Sec. 31. NRS 366.075 is hereby amended to read as follows:

366.075 "Special fuel transporter" means a person, except a special fuel supplier or special fuel exporter licensed pursuant to this chapter, who transports special fuel in interstate commerce **by pipeline, rail or truck** to or from any point within this State, or solely within this State.

Sec. 32. NRS 366.140 is hereby amended to read as follows:

366.140 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 33. NRS 366.207 is hereby amended to read as follows:

366.207 1. Except as otherwise provided in ~~{subsections 2 and 3,}~~ **subsection 2**, each special fuel supplier who sells or distributes special fuel to which dye has not been added shall, at the time the special fuel is purchased, collect the tax imposed pursuant to NRS 366.190.

2. ~~{A special fuel supplier may sell special fuel to a purchaser without collecting the tax imposed pursuant to NRS 366.190 if the purchaser of the special fuel:~~

~~(a) Has been issued a permit by the Department pursuant to NRS 366.397; and~~

~~(b) Elects to defer payment of the tax.~~

3. A special fuel supplier shall not collect the tax imposed pursuant to NRS 366.190 if the purchaser of the special fuel is:

(a) A special fuel supplier;

(b) A special fuel exporter; or

(c) A special fuel dealer.

3. A special fuel supplier or special fuel exporter shall not purchase special fuel on which the tax imposed pursuant to NRS 366.190 has been paid, except that a newly licensed special fuel supplier or special fuel exporter may purchase such fuel during its first month of operation.

4. A special fuel supplier who sells special fuel to any other special fuel supplier, ~~for~~ special fuel dealer **or special fuel exporter** shall keep such records of the transaction as the Department may require. The Department shall adopt regulations setting forth:

(a) The records which must be kept by the special fuel supplier pursuant to this subsection; and

(b) The period for which those records must be kept by the special fuel supplier.

5. If, within a period of 6 months, a person purchases ~~{not less than}~~ 200 gallons **or more** of special fuel in this State which is used for a purpose that is exempt from the payment of the tax on special fuel pursuant to NRS 366.200, he may apply to the Department for a refund in the manner prescribed in subsection 6 of NRS 366.650.

6. Any person who resells, for a taxable purpose, special fuel that was exempt from the tax imposed by this chapter and to which dye has not been added shall collect the tax and remit it to the Department.

Sec. 34. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter ~~it is unlawful for any:~~

~~(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.~~

~~(b) Person to be a:~~

~~(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.~~

~~(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.~~

~~(c) Retailer or other person to sell or distribute dyed special fuel unless the retailer or person controls the access to the dyed special fuel.] :~~

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter or special fuel user, a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter, or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any ~~[special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's]~~ license **pursuant to this chapter** and the collection of fees therefor.

Sec. 35. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a **license as a** special fuel ~~[supplier's]~~ **supplier** or special fuel ~~[dealer's license]~~ **dealer** shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all ~~[of]~~ the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and

interest due ~~to~~ the State of Nevada. The total amount of the bond or bonds of any holder of **such** a ~~{special fuel supplier's or special fuel dealer's}~~ license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than \$1,000 for a special fuel supplier and must not be less than \$100 for a special fuel dealer. If ~~{the Department determines that a person}~~ **a special fuel supplier or special fuel dealer** is habitually delinquent in the payment of amounts due **pursuant to this chapter**, the Department ~~{, it}~~ may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100.

2. *If a special fuel user is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than \$2,500.*

3. No recovery on any bond, ~~{nor the}~~ execution of any new bond ~~{, nor the}~~ or suspension or revocation of any **license as a special fuel {supplier's or} supplier, special fuel {dealer's license} dealer or special fuel user** affects the validity of any bond.

~~{3.}~~ 4. In lieu of a bond or bonds, an applicant for or holder of a **license as a special fuel {supplier's} supplier or special fuel {dealer's license} dealer, or a person required to provide a bond pursuant to subsection 2**, may deposit with the State Treasurer, under such terms as the Department may prescribe, ~~{a like}~~ **an equivalent** amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

~~{4.}~~ 5. If the holder of a **license as a special fuel {supplier's} supplier or special fuel {dealer's license} dealer** is required to provide a bond of more than \$5,000, the Department may reduce the requirements for the bond to not less than \$5,000 upon the ~~{supplier's or dealer's}~~ faithful performance of **the special fuel supplier or special fuel dealer of** all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

~~{5.}~~ 6. The Department shall immediately reinstate the original requirements for a bond for a holder of a **license as a special fuel {supplier's} supplier or special fuel {dealer's license} dealer** upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or

(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is “habitually delinquent” if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 36. NRS 366.260 is hereby amended to read as follows:

366.260 1. A license issued pursuant to this chapter:

(a) ~~{Except as otherwise provided in subsection 2, is valid until}~~ **Is valid for 1 year unless** suspended, revoked or cancelled.

(b) Is not transferable.

2. ~~{Each special fuel user’s license is valid for a calendar year unless suspended, revoked or cancelled.}~~ **The Department shall adopt regulations providing for the renewal of such licenses.**

Sec. 37. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user ~~{,}~~ **registered under the Interstate Highway User Fee Apportionment Act**, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer, file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this

chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 ~~[within 25 days after the end]~~ **on or before the last day** of the month **following the month** of the discontinuance, sale or transfer of the business.

Sec. 38. NRS 366.350 is hereby amended to read as follows:

366.350 1. The Department may **suspend**, revoke **or cancel** the license of any special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter or special fuel user for ~~[reasonable cause, including, without limitation,]~~ refusing or neglecting to comply with the provisions of this chapter.

2. ***If a special fuel dealer or special fuel supplier becomes delinquent in the payment of excise taxes as prescribed by this chapter to the extent that his liability exceeds the total amount of bond or bonds furnished by the special fuel dealer or special fuel supplier, the Department shall suspend his license immediately.***

3. Before revoking **or cancelling** a license ~~[]~~ **issued pursuant to this chapter**, the Department shall send a notice by registered or certified mail to the ~~[licensee]~~ **special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter** at his last known address . ~~[ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and]~~ **The notice must order the special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter to show cause why [the] his license should not be revoked [] by appearing before the Department at Carson City, Nevada, or such other place in this State as may be designated by the Department, at a time not less than 10 days after the mailing of the notice. The Department shall allow the special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter an opportunity to be heard. The Department may revoke or cancel his license after reviewing all information received.**

4. **The Department shall cancel any license issued pursuant to this chapter upon the surrender of the license by the holder.**

5. ***If a surety has lodged with the Department a written request to be released and discharged of liability, the Department shall notify the special fuel supplier or special fuel dealer who furnished the bond, and unless he files a new bond as required by the Department or makes a deposit in lieu thereof as provided in NRS 366.235, the Department shall cancel his license.***

Sec. 39. NRS 366.375 is hereby amended to read as follows:

366.375 1. If the amount of any excise tax for any reporting period is not paid to the State on or before the ~~[day the payment is due pursuant to this~~

~~chapter,} **date due**, the payment becomes delinquent at the close of business on that day. [A special fuel supplier, special fuel dealer or special fuel user may have up to 15 additional days to make the payment if he makes written application to the Department on or before the day the payment is due and the Department finds good cause for the extension.]~~

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.

Sec. 40. NRS 366.380 is hereby amended to read as follows:

366.380 1. ~~{Except as otherwise provided in subsection 2, on}~~ On or before the last day of January, April, July and October in each year, each special fuel user **registered under the Interstate Highway User Fee Apportionment Act** shall file with the Department a quarterly tax return for the preceding quarter, regardless of the amount of excise tax due, on a form prescribed by the Department. **The special fuel user shall include with the tax return payment of any excise tax due. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.**

2. ~~{A special fuel user may, upon the issuance or renewal of a special fuel license, request to file a tax return annually with the Department. If the request is approved by the Department, the special fuel user shall file with the Department a tax return for the preceding year on or before the last day of January of each year, regardless of the amount of excise tax due, on a form prescribed by the Department.}~~

~~3.} The return must show such information as the Department may reasonably require for the proper administration and enforcement of this chapter.~~

Sec. 41. NRS 366.395 is hereby amended to read as follows:

366.395 1. Any special fuel user who fails to **file a tax return or** pay any excise tax ~~{within the time prescribed by this chapter}~~ **by the date due** shall pay, in addition to ~~{the tax, a penalty}~~ **any tax that may be due, a delinquent filing fee** of \$50 ~~{or}~~ **and a penalty of** 10 percent of the amount **of tax** owed, ~~{whichever is greater,}~~ plus interest on the amount of ~~{the}~~ **any tax that may be due** at the rate of 1 percent per month or fraction thereof, from the date the tax ~~{became finally}~~ **was** due until the date of payment.

2. A tax return , ~~{or}~~ statement **or payment** is considered delinquent ~~{when it has not been}~~ **if it is not** received by the Department ~~{by}~~ **on or before** the date the tax return , ~~{or}~~ statement **or payment** is due, as prescribed by the provisions of this chapter.

3. **A tax return, statement or payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any country upon an envelope containing the tax return, statement or payment.**

Sec. 42. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers and special fuel users. A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him.

2. ~~{Except as otherwise provided in subsection 3, in computing the amount of tax on special fuel a special fuel supplier owes to the Department, the special fuel supplier may deduct from the amount due pursuant to subsection 1 any amount which is due but has not been paid by a purchaser who is authorized by the Department to defer payment of the tax pursuant to NRS 366.397. If such a deduction is claimed, the claim must identify the purchaser and the amount of taxes that he failed to pay.~~

3. ~~A special fuel supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount which has not been paid by a person whose permit to defer the payment of the tax has been revoked pursuant to subsection 4 of NRS 366.397 if, before the special fuel was purchased, the special fuel supplier had been notified by the Department pursuant to subsection 5 of NRS 366.397 that it had revoked the purchaser's permit.~~

4. ~~If the Department determines that a special fuel supplier or special fuel dealer , or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier , {or} special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier , {or} special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.~~

3. ***A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.***

Sec. 43. NRS 366.650 is hereby amended to read as follows:

366.650 1. If illegally or through error the Department collects or receives any excise tax, penalty or interest imposed pursuant to this chapter, the excise tax, penalty or interest must be refunded to the person who paid the tax, penalty or interest. A written application for a refund, ***including, without limitation, a request for a refund that is submitted on an amended tax return,*** stating the specific grounds therefor, must be made within 12 months after the date of payment, whether or not the excise tax, penalty or interest was paid voluntarily or under protest.

2. Refunds must be made to a successor, assignee, estate or heir of the person if written application is made within the time limit.

3. Any amount determined to be refundable by the Department must be refunded or credited to any amounts then due from the special fuel supplier or special fuel dealer.

4. All amounts refunded pursuant to the provisions of this chapter must be paid from the State Highway Fund on claims presented by the Department, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

5. A licensed special fuel user operating interstate or off road, or both, who can prove to the satisfaction of the Department that his special fuel purchases in Nevada exceed his use of the special fuel over the highways of this State for a certain quarter must apply credit to any excise taxes, penalties or interest required by this chapter or fees, taxes, penalties or interest applicable pursuant to chapter 371, 482 or 706 of NRS and any balance may be refunded or credited to succeeding reports.

6. A person who wishes to apply for a refund of the tax on special fuel paid by him pursuant to subsection 5 of NRS 366.207 must:

(a) Submit an application for the refund on a form prescribed by the Department; and

(b) Establish to the satisfaction of the Department that within a period of 6 months he purchased not less than 200 gallons of special fuel in this State which was used for a purpose that is exempt from the tax on special fuel pursuant to NRS 366.200.

↪ The Department shall refund to an applicant who complies with the provisions of this subsection a refund in an amount equal to the tax paid by the applicant less the percentage allowed the special fuel supplier pursuant to NRS 366.390.

7. To establish the validity of any claim for a refund, the Department may, upon demand, examine the books and records of the claimant. The failure of the claimant to accede to such a demand constitutes a waiver of all rights to the refund claimed on account of the transactions questioned.

8. No refund of special fuel taxes may be made for off-highway use of special fuel consumed in watercraft in this State for recreational purposes.

Sec. 44. NRS 366.695 is hereby amended to read as follows:

366.695 1. Every special fuel transporter, except a wholesale distributor transporting the products of a special fuel supplier licensed pursuant to this chapter, who transports special fuel in interstate commerce to or from any point within this State, or solely within this State, shall report all of those deliveries to the Department.

2. A report must be made for each calendar month and must be filed ~~[within 25 days after the end of the month for which the report is made.]~~ **not later than the last day of each month for the deliveries made during the preceding month.** The report must show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made;

(b) The date of each delivery;

(c) The number of gallons of special fuel delivered for each delivery; and

(d) Such other information as the Department may require.

Sec. 45. NRS 366.715 is hereby amended to read as follows:

366.715 1. The Department may seal a special fuel pump of a **retailer or** special fuel dealer , or the metered pipes and hoses of a rack **of a special fuel dealer or special fuel supplier**, if the **retailer**, special fuel dealer or special fuel supplier:

(a) Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;

(b) Operates without the license required by the provisions of this chapter;
or

(c) Operates without the bond or cash deposit required by the provisions of this chapter.

2. A special fuel pump of a **retailer or** special fuel dealer , or the metered pipes and hoses of the rack **of a special fuel dealer or special fuel supplier**, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Before sealing ~~the~~ a fuel pump or **the** metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the ~~licensed~~ **retailer**, special fuel ~~supplier~~ **dealer** or special fuel ~~dealer~~ **supplier** at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 46. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

~~{1-}~~ (a) Fails or refuses to pay the tax imposed by this chapter;

~~{2-}~~ (b) Engages in business in this State as a special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

~~{3-}~~ (c) Fails to make any of the reports required by this chapter;

~~{4-}~~ (d) Makes any false statement in any application, report or statement required by this chapter;

~~{5-}~~ (e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

~~{6-}~~ (f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

~~{7.}~~ (g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

~~{8.}~~ (h) Violates the provisions of NRS 366.265;

~~{9.}~~ (i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

~~{10.}~~ (j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

↪ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 46.5. NRS 244A.637 is hereby amended to read as follows:

244A.637 1. For the acquisition of any recreational facilities authorized in NRS 244A.597 to 244A.655, inclusive, **for the purposes described in subsection 3, or for any combination thereof**, the county fair and recreation board, at any time or from time to time may:

(a) In the name of and on behalf of the county, issue:

(1) General obligation bonds, payable from taxes; and

(2) General obligation bonds, payable from taxes, which payment is additionally secured by a pledge of gross or net revenues derived from the operation of such recreational facilities, and, if so determined by the board, further secured by a pledge of such other gross or net revenues as may be derived from any other income-producing project of the county or from any license or other excise taxes levied for revenue by the county, or otherwise, as may be legally made available for their payment;

(b) In the name of and on behalf of the county fair and recreation board, issue revenue bonds:

(1) Payable from the net revenues to be derived from the operation of such recreational facilities;

(2) Secured by a pledge of revenues from any tax on the rental of transient lodging levied for revenue by the county or a city;

(3) Secured by any other revenue that may be legally made available for their payment; or

(4) Payable or secured by any combination of subparagraph (1), (2) or (3); and

(c) Make a contract with the United States of America, or any agency or instrumentality thereof, or any other person or agency, public or private, creating an indebtedness if a question authorizing such contract is submitted to and approved by a majority of the qualified electors of the county in the manner provided in NRS 350.020 to 350.070, inclusive. This paragraph does not apply to contracts for the prepayment of rent or other similar obligations.

2. Revenue bonds issued pursuant to this section must be authorized by resolution of the county fair and recreation board, and no further approval by any person, board or commission is required.

3. *In a county whose population is 400,000 or more, the county fair and recreation board shall, at the request of the Department of Transportation, use its commercially reasonable best efforts to issue bonds as provided in subsections 1 and 2 for the purpose of providing money to the Department of Transportation to assist in paying the cost of any project in the county for which bonds are authorized to be issued pursuant to NRS 408.273.*

4. *Bonds may be issued for the purposes described in subsection 3 only if:*

(a) The county fair and recreation board determines that the provision of money for the purposes described in subsection 3 is essential to providing access to tourists to the recreational and tourism facilities of the county, including, without limitation, the recreational facilities of the county fair and recreation board;

(b) The bonds are issued in compliance with any contractual limitations set forth in the instruments authorizing any outstanding bonds issued as provided in subsections 1 and 2; and

(c) The aggregate principal amount of bonds issued for the purposes described in subsection 3, excluding any bonds issued to refund those bonds, does not exceed the lesser of:

(1) Three hundred million dollars; or

(2) An amount which the county fair and recreation board determines can be repaid, as to all principal and interest, over a period of not more than 30 years with the expenditure of not more than \$20,000,000 per year.

5. *All determinations of the county fair and recreation board under this section shall be deemed to be conclusive, absent fraud or a gross abuse of discretion.*

6. *The issuance and payment of bonds issued pursuant to subsection 3 is hereby declared to be a use which is in fulfillment of the statutory requirements of NRS 244A.645 and of any requirements of any ordinance pursuant to which a tax is levied for the benefit of the county fair and recreation board or transferred thereto, and no such ordinance may be repealed or amended in any manner which would affect adversely the receipt and use by the county fair and recreation board of the revenues pledged to any bonds issued pursuant to this section, during the term of the bonds issued pursuant to this section or any bonds that refund those bonds.*

7. *Any money provided to the Department of Transportation pursuant to subsection 3 must be deposited in the State Highway Fund for administration pursuant to subsection ~~3~~ 7 of NRS 408.235 ~~except that the money must be~~ and expended for the purposes described in subsection 3 of this section.*

Sec. 47. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per \$100 of the assessed valuation of the county.

2. ~~[The]~~ ***If a tax is levied pursuant to subsection 1 in:***

(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of ~~[any tax levied pursuant to the provisions of subsection 1]~~ ***the tax*** among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.

(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection ~~[3]~~ 7 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection ~~[3]~~ 7 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection ~~3~~ 7 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection ~~3~~ 7 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection ~~3~~ 7 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.

Sec. 47.1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 47.2 and 47.3 of this act.

Sec. 47.2. **1. The Board shall adopt a plan for measuring the performance of the Department, which must include separate sets of performance measurements for each division of the Department and for the Department as a whole.**

2. The Director shall, not later than December 31 of each year:

(a) Prepare a report, based upon the relevant performance measurements adopted pursuant to subsection 1, on the level of achievement of each division of the Department and of the Department as a whole during the immediately preceding fiscal year. The report must include a discussion of:

(1) The goals and objectives of the Department, and the current status of the Department in relation to meeting those goals and objectives;

(2) Any applicable directives from the Board or Legislature since the most recent report prepared pursuant to this section;

(3) The scheduling, scope, cost and progress of any current or proposed highway projects;

(4) The sources, amount and expenditure of any funding received during the immediately preceding fiscal year;

(5) The rationale used to establish priorities for the completion of highway projects; and

(6) Any recommendations for amendments to the plan adopted pursuant to subsection 1.

(b) Submit the report to:

(1) The Board; and

(2) The Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

Sec. 47.3. 1. *Before the Department submits a proposal for a highway project to the Board for approval, the Department shall prepare a written analysis of the costs and benefits of the project. The analysis must state, for each highway district in which the project is proposed:*

(a) The limits of the project;

(b) The period of analysis;

(c) The discount rate used in the analysis;

(d) The initial costs of the Department for the project, including any costs for design, engineering, the acquisition of land and construction;

(e) The future costs of the Department to preserve and maintain the project, discounted to present value;

(f) Any other costs of the Department for any other construction or any mitigation associated with the project;

(g) The costs to highway users for any loss of safety, delays in the time of travel and costs for the operation of vehicles that are associated with the project;

(h) The costs of any environmental impacts, including vehicle emissions and noise, that are associated with the project; and

(i) The value of the benefits of the project, including the value of any:

(1) Savings in the time of travel;

(2) Improvements to safety; and

(3) Savings in the cost of operating vehicles.

2. *The analysis required by this section:*

(a) Must include a discussion of any additional increases in costs that would result from any delays in the performance of any routine maintenance scheduled under the maintenance program of the Department;

(b) May include a discussion of:

(1) The costs of the project for any other persons and governmental agencies;

(2) The value of any other social, economic or environmental benefits or costs of the project; and

(3) Any costs or benefits which may result from the use of any alternative design, construction or financing practices; and

(c) Must be prepared in a format that allows for the comparison of proposed highway projects.

3. The analysis required by this section must be made available to the Board and the public when the agenda is posted for the meeting at which the proposal will be submitted to the Board for its approval.

4. As used in this section, "highway project" means a project that is expected to increase the capacity of the state highway system and cost at least \$25 million.

Sec. 47.4. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided ~~in subsection 6 of NRS 482.180 and NRS 482.1805,~~ **by a specific statute**, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
 ➤ must be deposited in the State Highway Fund and must, except for **the** costs of administering the collection thereof, be used exclusively for **the** administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

~~3. [The money deposited in the State Highway Fund pursuant to NRS 244A.637 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and~~

~~(b) May not be used for any costs of administration or to purchase any equipment.~~

~~4.~~ The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

4. ~~5.~~ Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. ~~6.~~ Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. ~~7.~~ All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

7. *The money deposited in the State Highway Fund pursuant to NRS 244A.637 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:*

(a) *Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;*

(b) *Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and*

(c) *Must not be used for any costs of administration or to purchase any equipment.*

Sec. 47.5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
 ➔ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

~~3. *The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 492.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:*~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and~~

~~(b) May not be used for any costs of administration or to purchase any equipment.~~

~~4.~~ The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

~~5.~~ 4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

~~6.~~ 5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

~~7.~~ 6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) Must not be used for any costs of administration or to purchase any equipment.

Sec. 47.6. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

↪ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. ~~The money deposited in the State Highway Fund pursuant to NRS 244A.637, 354.59815 and 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and~~

~~(b) May not be used for any costs of administration or to purchase any equipment.~~

~~4.~~ The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

~~5.~~ 4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

~~6.~~ 5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

~~7.~~ 6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) Must not be used for any costs of administration or to purchase any equipment.

Sec. 48. (Deleted by amendment.)

Sec. 49. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor ~~is~~:

~~(a) Shall~~ **shall** charge and collect from the short-term lessee:

~~{{(1)}} (a)~~ A governmental services fee of 6 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7; ~~and~~

~~{{(2)}} (b)~~ Any fee required pursuant to NRS 244A.810 or 244A.860; and

~~{{(b)}} May charge and collect from the short-term lessee a~~

(c) A recovery surcharge ~~[not to exceed]~~ fee of 4 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 8, as reimbursement for vehicle licensing fees and taxes paid by the short-term lessor.

↪ The amount of ~~any~~ **each** fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On

or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of:

(1) Each of the fees collected by the short-term lessor pursuant to ~~paragraph (a) of~~ subsection 1 during the immediately preceding calendar quarter; **and**

(2) ~~Recovery surcharges, if any, collected by the short-term lessor pursuant to paragraph (b) of subsection 1 during the immediately preceding calendar quarter; and~~

~~(3)~~ Vehicle licensing fees and taxes paid by the short-term lessor pursuant to this chapter during the immediately preceding calendar quarter.

(b) Remit to the Department of Taxation ~~the~~ :

(1) The fees collected by the short-term lessor pursuant to ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1 during the immediately preceding calendar quarter ~~;~~ **and**

(2) One-quarter of the fees collected by the short-term lessor pursuant to paragraph (c) of subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from short-term lessors pursuant to the provisions of ~~this section~~ :

(a) Subparagraph (1) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State General Fund ~~;~~ **and**

(b) Subparagraph (2) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State Highway Fund for administration pursuant to subsection ~~8~~ 8 of NRS 408.235.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in ~~subparagraph (1) of~~ paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of ~~any recovery surcharge~~ **the fees** charged and collected pursuant to ~~paragraph~~ **paragraphs (b) and (c)** of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; **and**

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible .

8. For the purposes of charging and collecting the recovery surcharge **fee** described in paragraph ~~[(b)]~~ (c) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of the fees charged and collected pursuant to ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1;

(b) The amount of any charge for a collision damage waiver or a similar instrument that acts as a waiver of the short-term lessor's right to collect from the short-term lessee for any damage to the passenger car;

(c) The amount of any charge for fuel used to operate the passenger car;

(d) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(e) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property;

(f) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible; and

(g) The amount of any concession fee or charge that the short-term lessor:

(1) Is required to pay to do business at an airport, if applicable; and

(2) Passes on to the short-term lessee of the passenger car.

9. The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as he determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

10. As used in this section, "vehicle licensing fees and taxes" means:

(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him; and

(b) The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those passenger cars.

Sec. 49.5. NRS 482.31565 is hereby amended to read as follows:

482.31565 1. A short-term lessor shall not require the purchase of a waiver of damages, optional insurance or any other optional good or service as a condition for the lease of a passenger car.

2. ~~[A]~~ **Except as otherwise provided in this subsection, a** short-term lessor may sell a waiver of damages but shall not charge more than ~~[\$15]~~ **\$22** per full or partial rental day or 24-hour rental period, as appropriate, for the waiver. **The monetary amount set forth in this subsection must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase**

in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.

3. A short-term lessor who disseminates an advertisement in the State of Nevada that contains a rate for the lease of a passenger car shall include in the advertisement a clearly readable statement of the charge for a waiver of damages and a statement that the waiver is optional.

4. A short-term lessor shall not engage in any unfair, deceptive or coercive conduct to induce a short-term lessee to purchase a waiver of damages, optional insurance or any other optional good or service, including, but not limited to, refusing to honor the lessee's reservation, limiting the availability of cars, requiring a deposit or debiting or blocking the lessee's credit card account for a sum equivalent to a deposit if the lessee declines to purchase a waiver, optional insurance or any other optional good or service.

Sec. 49.7. NRS 482.3158 is hereby amended to read as follows:

482.3158 1. The short-term lessor of a passenger car may impose an additional charge:

(a) Based on reasonable age criteria established by the lessor.

(b) For any item or a service provided if the short-term lessee could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service.

(c) For insurance and accessories requested by the lessee.

(d) For service incident to the lessee's optional return of the car to a location other than the location where the car was leased.

(e) For refueling the car at the conclusion of the lease if the lessee did not return the car with as much fuel as was in the fuel tank at the beginning of the lease.

(f) For any authorized driver in addition to the short-term lessee ~~and one other authorized driver~~ but shall **not , except as otherwise provided in this paragraph**, charge more than ~~the~~ **\$10** per full or partial 24-hour period for such an additional authorized driver. ***The monetary amount set forth in this paragraph must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.***

2. A short-term lessor shall not charge a short-term lessee, as a condition of leasing a passenger car, an additional fee for:

- (a) Any surcharges required for fuel.
- (b) Transporting the lessee to the location where the car will be delivered to the lessee.

~~[(c) One other authorized driver.]~~

3. If a short-term lessor:

(a) Delivers a passenger car to a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period before the delivery of the car.

(b) Takes possession of a passenger car from a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period after the lessee notifies the lessor to take possession of the car.

Sec. 50. (Deleted by amendment.)

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 365.326, 365.328, 366.360 and 366.397 are hereby repealed.

Sec. 55.3. The Department of Transportation shall, not later than December 31 of each year:

1. Prepare an annual report on all the projects undertaken with the money deposited in the State Highway Fund pursuant to NRS 244A.637. The report must include:

(a) For each of those projects:

(1) The amount of that funding expended on the project.

(2) The amount of any other funding expended on the project.

(3) The timeline for the completion of the project.

(4) Specific information regarding any delays in the project as a result of any variances from the Department's projections of scheduling and costs.

(5) The status of:

(I) The definition of the project.

(II) The preliminary engineering for the project.

(III) The environmental documentation for the project.

(IV) The acquisition of required rights-of-way for the project.

(V) The date of advertisement for bids on the project.

(VI) The date of operational completion of the project.

(b) The total number of those projects that have been completed and, for each completed project:

(1) Whether the project was completed early or on time.

(2) Whether the project remained within its planned scope.

(3) Whether the project was completed for less than or for the amount of its budgeted expenses.

(4) Any specific measures of transportation improvement resulting from the project.

2. Submit the annual report to:

(a) The Governor.

(b) The Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

Sec. 55.5. 1. The Director of the Department of Transportation shall, each calendar quarter, prepare a report to supplement the annual reports required pursuant to section 47.2 of this act, and submit the quarterly report to the Board of Directors of the Department of Transportation and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. The quarterly report must contain the following information with respect to the highway projects that the Blue Ribbon Task Force, as created by the Board of Directors of the Nevada Department of Transportation, identified in its report dated December 5, 2006, and any proposed super and mega highway projects:

(a) For each of those projects:

(1) The amount of funding expended on the project.

(2) The timeline for the completion of the project.

(3) Specific information regarding any delays in the project as a result of any variances from the Department's projections of scheduling and costs.

(4) The status of:

(I) The definition of the project.

(II) The preliminary engineering for the project.

(III) The environmental documentation for the project.

(IV) The acquisition of required rights-of-way for the project.

(V) The date of advertisement for bids on the project.

(VI) The date of operational completion of the project.

(b) The total number of those projects that have been completed and, for each completed project:

(1) Whether the project was completed early or on time.

(2) Whether the project remained within its planned scope.

(3) Whether the project was completed for less than or for the amount of its budgeted expenses.

(4) Any specific measures of transportation improvement resulting from the project.

2. The Director shall cause a copy of each report prepared pursuant to this section to be posted on the Internet website of the Department when the report is submitted pursuant to subsection 1.

Sec. 56. 1. This act does not require the payment of any principal or interest on any bonds described in subsection 3 of NRS 244A.637, as amended by section 46.5 of this act, before July 1, 2008.

2. The amendatory provisions of section 47 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such

obligations have been discharged in full or provision for their payment and redemption has been fully made.

3. The amendatory provisions of section 49 of this act do not apply to the lease of a passenger car before October 1, 2007.

Sec. 57. 1. This section and sections 1 to 46, inclusive, 49.5, 49.7, 55 and 56 of this act become effective upon passage and approval.

2. Sections 46.5, 47.1 to 47.4, inclusive, 55.3 and 55.5 of this act become effective on July 1, 2007.

3. Sections 47.5 and 49 of this act become effective on October 1, 2007.

4. Sections 47 and 47.6 of this act become effective on July 1, 2008.

5. Section 55.5 of this act expires by limitation on December 31, 2015.

TEXT OF REPEALED SECTIONS

365.326 Calculation of amount due from supplier: Deduction of amount due from purchaser who is authorized to defer payment.

1. Except as otherwise provided in subsection 2, in calculating the amount of tax on motor vehicle fuel, other than aviation fuel, a supplier owes to the Department, the supplier may deduct from the amount due pursuant to NRS 365.175 to 365.192, inclusive, any amount that is due but has not been paid by a purchaser who is authorized by the Department to defer payment of the tax pursuant to NRS 365.328. If such a deduction is claimed, the claim must identify the purchaser and the amount of the taxes that he failed to pay.

2. A supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount that has not been paid by a person whose permit to defer the payment of the tax has been revoked pursuant to subsection 4 of NRS 365.328 if, before the motor vehicle fuel, other than aviation fuel, was purchased, the supplier was notified by the Department pursuant to subsection 5 of NRS 365.328 that it had revoked the permit of the purchaser.

365.328 Deferral of payment by purchaser of certain motor vehicle fuel: Permit; bond; time and method of payment; failure to pay; regulations.

1. A purchaser of motor vehicle fuel, other than aviation fuel, who wishes to defer payment to the supplier of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, until 20 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the taxes.

2. The Department may require an applicant for a permit to defer payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to NRS 365.326 by a supplier because of the failure of the principal to pay the taxes as required by this chapter.

3. If a purchaser of motor vehicle fuel, other than aviation fuel:

(a) Has been issued a permit to defer the payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive; and

(b) Elects to defer payment of the taxes,
➡ he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the taxes to the supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a supplier as required by this section, the Department may:

- (a) Revoke the permit of the purchaser;
- (b) If the purchaser was required to provide a bond pursuant to subsection 2, require the purchaser to increase the amount of the bond; or
- (c) Take any other action to ensure that the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, are paid.

5. The Department shall notify each supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

7. As used in this section, “electronic transfer of money” means any transfer of money, other than a transaction initiated by a check, draft or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape to order, instruct or authorize a financial institution or person holding an account on behalf of a purchaser of motor vehicle fuel to debit an account.

366.360 Cancellation of license.

1. The Department shall cancel any license to act as a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user immediately upon the surrender thereof by the holder.

2. If a surety has lodged with the Department a written request to be released and discharged of liability, the Department shall immediately notify the special fuel supplier or special fuel dealer who furnished the bond, and unless he files a new bond as required by the Department within 30 days or makes a deposit in lieu thereof as provided in NRS 366.235, the Department may cancel his license.

3. If a special fuel supplier or special fuel dealer becomes delinquent in the payment of excise taxes as prescribed by this chapter to the extent that his liability exceeds the total amount of bond furnished by him, the Department may cancel his license immediately.

366.397 Permit to defer payment of tax: Application; bond; payment of tax by electronic transfer; effect of failure to pay tax; notice of revocation; regulations.

1. A purchaser of special fuel who wishes to defer payment of the tax imposed pursuant to NRS 366.190 to the special fuel supplier until 25 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the tax.

2. The Department may require an applicant for a permit to defer payment of the tax imposed pursuant to NRS 366.190 to provide a bond

executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to subsection 2 of NRS 366.540 by a special fuel supplier because of the principal's failure to pay the tax as required by this chapter.

3. If a purchaser of special fuel:

(a) Has been issued a permit to defer the payment of the tax imposed pursuant to NRS 366.190; and

(b) Elects to defer payment of the tax,

➡ he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the tax to the special fuel supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a special fuel supplier as required by this section, the Department may:

(a) Revoke the purchaser's permit;

(b) If the purchaser was required to provide a bond pursuant to subsection 2, require the purchaser to increase the amount of the bond; or

(c) Take any other action to ensure that the tax imposed pursuant to NRS 366.190 is paid.

5. The Department shall notify each special fuel supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

7. As used in this section, "electronic transfer of money" means any transfer of money, other than a transaction initiated by a check, draft or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape to order, instruct or authorize a financial institution or person holding an account on behalf of a purchaser of special fuel to debit an account.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 595.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 591.

The following Senate amendment was read:

Amendment No. 1131.

AN ACT relating to education; revising provisions governing the sponsorship of charter schools; prescribing the circumstances under which certain charter schools are exempt from annual performance audits and are authorized to receive certain money for facilities; revising provisions regarding the membership of a governing body of a charter school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district and the State Board of Education may sponsor charter schools. (NRS 386.515) Section 17 of this bill authorizes a college or university within the Nevada System of Higher Education to sponsor charter schools. Sections 1-14, 17-20, 25, 26 and 28 of this bill revise provisions to reflect sponsorship by a college or university.

Section 15 of this bill sets forth the requirements for a charter school that has been in operation for at least 5 years to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriation or otherwise for facilities.

Existing law requires the Department of Education and the sponsor of a charter school to provide certain assistance and information to charter schools. (NRS 386.545) Section 22 of this bill expands the services that a school district must provide if the school district sponsors a charter school.

Existing law prescribes the membership of the governing body of a charter school ~~to be~~, **which must consist of at least three teachers licensed to teach in this State.** (NRS 386.549) Existing regulation of the Department of Education prohibits more than one member on the governing body representing the same nonprofit organization or business. (NAC 386.345) Section 23 of this bill **authorizes a governing body to consist of at least two licensed teachers and one person who previously held a license to teach and** prohibits more than two persons who serve on the governing body from representing the same organization or business or otherwise representing the interests of the same organization or business.

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

Section 1. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed **educational** personnel in ~~education in~~ the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall ~~to~~:

~~(a) Report~~ **report** the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ **The information for charter schools must be reported separately and must denote** the charter schools sponsored by the school district ~~[but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district and~~, **the charter schools** sponsored by the State Board ~~[-]~~ **and the charter schools sponsored by a college or university within the Nevada System of Higher Education.**

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations;

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school;

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following subgroups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board;

(4) A comparison of the achievement of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board;

(5) The percentage of pupils who were not tested;

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the subgroups identified in subparagraph (3);

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available;

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by

this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison; and

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➔ A separate reporting for a subgroup of pupils must not be made pursuant to this paragraph if the number of pupils in that subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a subgroup for that subgroup to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole, excluding pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

- (1) A standard high school diploma.
- (2) An adjusted diploma.
- (3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school in the district. The information must include:

- (1) The number of paraprofessionals employed at the school; and
- (2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➔ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.349 is hereby amended to read as follows:

385.349 1. The board of trustees of each school district shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau and the school districts, prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

(6) Schools within the school district.

(b) Provide for the public dissemination of the summary by posting a copy of the summary on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the summary. The board of trustees of each school district shall ensure that the parents and guardians of pupils enrolled in the school district have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, if any. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the summary.

5. The board of trustees of each school district shall ~~for~~:

~~(a) Report~~ **report** the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school.

~~[(b) For the information that is reported in an aggregated format, include the data that is applicable to]~~ **The information for charter schools must be reported separately and must denote** the charter schools sponsored by the

school district ~~but not the charter schools that are sponsored by the State Board.~~

~~(c) Denote separately in the report those charter schools that are located within the school district and~~ , **the charter schools** sponsored by the State Board ~~[-] and the charter schools sponsored by a college or university within the Nevada System of Higher Education.~~

Sec. 3. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Board ~~[-] or a college or university within the Nevada System of Higher Education,~~ the Department shall make a determination for the charter school in consultation with the State Board ~~[-] or the institution that sponsors the charter school, as applicable.~~ The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) ~~[-] or (c),~~ the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the State Board the determination made for each charter school that is sponsored by the State Board.

(c) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each subgroup of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the subgroup enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that subgroup enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular subgroup who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular subgroup.

(b) The pupils in such a subgroup must be included in the overall count of pupils enrolled in the school who took the examinations.

➡ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a subgroup for that subgroup to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 4. NRS 385.362 is hereby amended to read as follows:

385.362 1. If a public school fails to make adequate yearly progress for 1 year:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

(b) For a charter school sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**, the Department shall ensure, in conjunction with the governing body of the charter school, that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a public school fails to make adequate yearly progress for 1 year, the principal of the school shall ensure that the plan to improve the achievement of pupils enrolled in the school is reviewed, revised and approved in accordance with NRS 385.357.

Sec. 5. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the State Board ~~[-]~~ **and all charter schools sponsored by a college or university within the Nevada System of Higher Education**. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

- (1) Governor;
- (2) State Board;
- (3) Committee; and
- (4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

- (1) Superintendent of schools of the school district; and
- (2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

Sec. 6. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the technical assistance partnership established for the school pursuant to this section shall carry out the requirements of NRS 385.3692.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto; and

(c) Establish a technical assistance partnership for the school, with the membership prescribed pursuant to NRS 385.3691.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Establish a technical assistance partnership for the charter school, with the membership prescribed pursuant to NRS 385.3691.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. The provisions of this paragraph do not require the school district to pay for the technical assistance partnership established by the governing body of the charter school.

(c) For a charter school sponsored by the State Board ~~or~~ **or a college or university within the Nevada System of Higher Education**, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

4. In addition to the requirements of subsection 2 or 3, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) For a charter school sponsored by the State Board ~~or~~ **or a college or university within the Nevada System of Higher Education**, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 7. NRS 385.3691 is hereby amended to read as follows:

385.3691 1. The membership of each technical assistance partnership established by the board of trustees of a school district for a public school pursuant to NRS 385.3661:

(a) Must consist of:

(1) At least one employee of the public school for which the partnership is established; and

(2) At least one representative of the school district.

(b) May consist of other persons, as determined by the board of trustees, in accordance with the needs of the school based upon the data and information pertaining to that school.

2. The membership of each technical assistance partnership established by the governing body of a charter school:

(a) Must consist of:

(1) At least one employee of the charter school;

(2) At least one member of the governing body of the charter school;

(3) For a charter school sponsored by the board of trustees of the school district, at least one representative of the school district, appointed by the school district; ~~and~~

(4) For a charter school sponsored by the State Board, at least one representative of the Department, appointed by the Department ~~or~~; **and**

(5) For a charter school sponsored by a college or university within the Nevada System of Higher Education, at least one representative of that institution, appointed by the president of the institution.

(b) May consist of other persons, as determined by the governing body, in accordance with the needs of the charter school based upon the data and information pertaining to that charter school.

Sec. 8. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the

technical assistance partnership established for the school pursuant to NRS 385.3661 shall carry out the requirements of NRS 385.3692.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto; and

(c) Continue the technical assistance partnership for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Continue the technical assistance partnership for the school.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. The provisions of this paragraph do not require the school district to pay for the technical assistance partnership established by the governing body of the charter school.

(c) For a charter school sponsored by the State Board ~~of~~ **or a college or university within the Nevada System of Higher Education**, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 9. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to

NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(3) Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board ~~or~~ **or a college or university within the Nevada System of Higher Education**, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

Sec. 11. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(e) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(f) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department. ***For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.***

(g) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

- (1) Comply with NRS 385.357;
- (2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;
- (3) Include the data and findings of the support team that provide support for the revisions;
- (4) Set forth goals, objectives, tasks and measures for the school that are:
 - (I) Designed to improve the achievement of the school's pupils;
 - (II) Specific;
 - (III) Measurable; and
 - (IV) Conducive to reliable evaluation;
- (5) Set forth a timeline to carry out the revisions;
- (6) Set forth priorities for the school in carrying out the revisions; and
- (7) Set forth the names and duties of each person who is responsible for carrying out the revisions.

(h) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. ***If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.***

(i) Prepare a monthly progress report in the format prescribed by the Department and:

- (1) Submit the progress report to the Department.
- (2) Distribute copies of the progress report to each employee of the school for review.

(j) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise monthly progress report for use by each support team in accordance with paragraph (i) of subsection 1.

Sec. 12. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if

the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 13. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the support team established for the school pursuant to NRS 385.3721 shall carry out the requirements of NRS 385.3741, 385.3742 and 385.3744, as applicable.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall continue a support team for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board ~~of Higher Education~~ **or a college or university within the Nevada System of Higher Education**, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The Department shall continue a support team for the charter school.

Sec. 14. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. In addition to the requirements of NRS 385.3745, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board ~~[-]~~ **or a college or university within the Nevada System of Higher Education**, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay,

the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and

other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 15. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 16. NRS 386.500 is hereby amended to read as follows:

386.500 For the purposes of NRS 386.500 to 386.610, inclusive, **and section 15 of this act** a pupil is “at risk” if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping

out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 17. NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State Board shall sponsor charter schools whose applications have been approved by the State Board pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the State Board sponsors a charter school, the State Board or the Department is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

Sec. 18. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

- (a) Members of the general public;
- (b) Representatives of nonprofit organizations and businesses; or
- (c) Representatives of a college or university within the Nevada System of Higher Education.

↪ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. Before a committee to form a charter school may submit an application to the board of trustees of a school district, the Subcommittee on Charter Schools, ~~for~~ the State Board ~~or~~ **or a college or university within the Nevada System of Higher Education**, it must submit the application to the Department. The application must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

- (1) Improving the opportunities for pupils to learn;
- (2) Encouraging the use of effective methods of teaching;
- (3) Providing an accurate measurement of the educational achievement of pupils;
- (4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

3. The Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, home school or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. As used in subsection 1, “teacher” means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

↪ The term does not include a person who is employed as a substitute teacher.

Sec. 19. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon approval of an application by the Department, a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located , ***a college or university within the Nevada System of Higher Education*** or directly to the Subcommittee on Charter Schools. If the board of trustees of a school district , ***a college or a university, as applicable,*** receives an application to form a charter school, the board of trustees ***or the institution, as applicable,*** shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district ~~[]~~ ***or the institution, as applicable,*** and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, ***the college, the university,*** the Subcommittee on Charter Schools or the State Board, as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

2. The Department shall assist the board of trustees of a school district , ***the college or the university, as applicable,*** in the review of an application. The board of trustees , ***the college or the university, as applicable,*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees , ***the college or the university, as applicable,*** shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees , ***the college or the university, as applicable,*** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted

30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees , ***the college or the university, as applicable,*** denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request for sponsorship by the State Board to the Subcommittee on Charter Schools created pursuant to NRS 386.507 not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the Subcommittee on Charter Schools receives an application pursuant to subsection 1 or 4, it shall hold a meeting to consider the application. The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The Subcommittee shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. Not more than 30 days after the meeting, the State Board shall provide written notice of its determination to the applicant.

7. If the State Board denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

8. If the State Board denies an application after it has been resubmitted pursuant to subsection 7, the applicant may, not more than 30 days after the receipt of the written notice from the State Board, appeal the final determination to the district court of the county in which the proposed charter school will be located.

9. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district , ~~for~~ the State Board , *a college or a university* during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 20. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State Board , ~~for,~~ the board of trustees of a school district **or a college or university within the Nevada System of Higher Education** approves an application to form a charter school, it shall grant a written charter to the applicant. The State Board , ~~for,~~ the board of trustees, **the college or the university**, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State Board approves the application:

(a) The State Board shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. ~~{Upon the initial renewal of a written charter and each renewal thereafter, the}~~ **If a college or university within the Nevada System of Higher Education approves the application:**

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. **The** governing body of a charter school may request , **at any time**, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt objective criteria for the conditions under which such a request may be granted.

~~{4.}~~ 5. Except as otherwise provided in subsection ~~{6.}~~ 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Board is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a

written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

~~{5.}~~ 6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently enrolled in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of this section, NRS 386.500 to 386.610, inclusive, and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently enrolled in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

~~{6.}~~ 7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➔ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

~~{7.}~~ 8. The holder of a written charter that is issued pursuant to subsection ~~{6}~~ 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board pursuant to subsection ~~{6}~~ 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 21. NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district and the Subcommittee on Charter Schools, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, the Subcommittee on Charter Schools and the State Board in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, including, without limitation, regulations that prescribe the ~~procedures~~ :

(a) Procedures for accounting ~~{,}~~ **and** budgeting ~~{and annual audits}~~ ;

(b) Requirements for performance audits and financial audits of charter schools ~~{,}~~ **on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of section 15 of this act; and**

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of section 15 of this act.

Sec. 22. NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive;

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school; ~~and~~

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government ~~[-]; and~~

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

~~(a) If a pupil enrolled in the charter school is on an extended leave of absence from the charter school due to a physical condition or illness, provide for in-home educational services to the pupil in the same manner as other pupils enrolled in the school district receive those services.~~

~~(b)~~ **Provide the charter school with an updated list of available substitute teachers within the school district.**

~~(c)~~ **(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.**

~~(d)~~ **(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.**

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

Sec. 23. NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school ~~must~~ :

(a) Must consist of ~~at~~ :

(1) At least three teachers, as defined in subsection ~~4, and may~~ **5; or**

(2) Two teachers, as defined in subsection 5, and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

(b) May consist of, without limitation, parents and representatives of nonprofit organizations and businesses. **Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business.** A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

2. A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

~~12.1~~ 3. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~13.1~~ 4. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located.

~~14.1~~ 5. As used in subsection 1, “teacher” means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

↪ The term does not include a person who is employed as a substitute teacher.

Sec. 24. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation ~~and~~, the provision of health services for the pupils who are enrolled in the charter school ~~and~~ **and the provision of school police officers.**

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➡ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➡ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or an association for interscholastic activities. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 25. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the

charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. ***The request must include an itemized list of those costs.*** Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district ~~if~~ if the board of trustees sponsors the charter school, ~~to~~ to the Department if the State Board sponsors the charter school ~~or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school.~~ If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

4. If the State Board ***or a college or university within the Nevada System of Higher Education*** is the sponsor of a charter school, the amount of money that may be paid to the Department ***or to the institution, as applicable,*** pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose

applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 26. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the board of trustees of a school district **or a college or university within the Nevada System of Higher Education** sponsors a charter school, the board of trustees **or the institution, as applicable,** shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the board of **trustees or institution, as applicable,** in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the school district **or institution, as applicable,** to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in

accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts and charter schools in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school and all the funds attributable to pupils who reside in the county and are enrolled full time or part time in a program of distance education provided by another school district or a charter school. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support. If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by NRS 388.854, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil resides, or the board of trustees or governing body that provides the program of distance education.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State Board ~~of~~ **or a college or university within the Nevada System of Higher Education**, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part time in the program if an agreement is filed for that pupil pursuant to NRS 388.854 or 388.858, as applicable. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

7. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. Section 2 of Assembly Bill No. 334 of this Session is hereby amended to read as follows:

Sec. 2. *There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools ~~and~~ and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board ~~and~~ or sponsored by a college or university within the Nevada System of Higher Education. The State Board is hereby deemed the board of trustees of the School District. The School District is created*

for the sole purpose of providing local educational agency status to the District for purposes of federal law governing charter schools.

~~[Sec. 31.]~~ **Sec. 32. 1. This section and section 31 of this act become effective upon passage and approval.**

2. Sections 1 to 30, inclusive, of this act ~~[becomes]~~ become effective on July 1, 2007.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 591.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 131, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 964 of the Assembly be concurred in.

WILLIAM HORNE
JAMES OHRENSCHALL
FRANCIS ALLEN

Assembly Conference Committee

MARK AMODEI
VALERIE WIENER
MAURICE WASHINGTON

Senate Conference Committee

Assemblyman Horne moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 131.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 521, consisting of the undersigned members, has met and reports that:

No decision was reached.

BERNIE ANDERSON
TICK SEGERBLOM
GARN MABEY

Assembly Conference Committee

MARK AMODEI
VALERIE WIENER
TERRY CARE

Senate Conference Committee

Assemblyman Anderson moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 521.

Remarks by Assemblyman Anderson.

Motion carried.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 182, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 1056 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 22, which is attached to and hereby made a part of this report.

KATHY MCCLAIN
SUSAN GERHARDT
JOE HARDY

Assembly Conference Committee

JOYCE WOODHOUSE
JOSEPH HECK

Senate Conference Committee

Conference Amendment No. CA22.

AN ACT relating to public health; authorizing the Department of Health and Human Services to administer certain programs to assist certain persons with costs relating to health care and pharmaceutical services; revising the percentages of and the manner of allocating money in the Fund for a Healthy Nevada for certain programs; revising provisions governing the subsidies from the Fund for the cost of prescription drugs, pharmaceutical services and certain other benefits; revising the membership and duties of the Grants Management Advisory Committee; repealing the Task Force for the Fund for a Healthy Nevada; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under federal law, states may provide subsidies, prescription drugs and other assistance to persons with the human immunodeficiency virus or acquired immunodeficiency syndrome. (42 U.S.C. §§ 300ff-21 et seq.) Section 1 of this bill authorizes the Department of Health and Human Services to participate in the federal program and to administer the program in conjunction with other programs already administered by the Department.

Under existing law, the Task Force for the Fund for a Healthy Nevada makes allocations, or reserves for allocation or expenditure by the Department or the Aging Services Division of the Department, certain percentages of money in the Fund for a Healthy Nevada for certain programs and services. (NRS 439.630) Section 4 of this bill eliminates the role of the Task Force in making allocations of money from the Fund and requires the Department to make such allocations itself. **Section 4 also revises the amount of money prescribed for programs that prevent, reduce or treat the use of tobacco, for programs that improve the health and well-being of persons with disabilities and to subsidize certain costs of providing prescription drugs and pharmaceutical services to persons with disabilities.**

Existing law establishes a program to provide subsidies for senior citizens and persons with disabilities for the cost of prescription drugs and pharmaceutical services and, for senior citizens, other benefits, including, without limitation, dental and vision benefits. (NRS 439.635-439.690, 439.705-439.795) Sections 4 and 5 of this bill specifically add, to the extent money is available, hearing aids and other hearing devices to the list of benefits available for both senior citizens and persons with disabilities pursuant to these programs. Sections 4 and 6 also make persons with disabilities eligible for the same additional benefits for which senior citizens are currently eligible under existing law, including, without limitation, dental

and vision benefits. This bill also allows certain veterans to receive such benefits if they qualify as a senior citizen or person with a disability.

The Grants Management Advisory Committee provides assistance to the Department in the allocation and administration of certain grants administered by the Department. (NRS 232.383, 232.385) Section 9 of this bill increases the membership of the Advisory Committee.

Section 11 of this bill repeals the Task Force for the Fund for a Healthy Nevada.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department may, to the extent that money is available, administer a program pursuant to 42 U.S.C. §§ 300ff-21 et seq. to provide therapeutics to treat certain persons who have been diagnosed with the human immunodeficiency virus or acquired immunodeficiency syndrome and to prevent the serious deterioration of the health of such persons. The program may include the provision of subsidies and pharmaceutical services.

2. The Director shall:

(a) Establish the criteria for eligibility for participation in the program administered pursuant to this section, which must be in accordance with the provisions of 42 U.S.C. §§ 300ff-21 et seq.; and

(b) Prescribe the manner in which the program will be administered and services will be provided.

3. The Department may use any other program administered by the Department to facilitate the provision of subsidies and services pursuant to this section, including, without limitation, the provision of subsidies for pharmaceutical services to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. If the Department uses another program to facilitate the provision of subsidies and services pursuant to this section, the Department shall not commingle the money available to carry out the provisions of this section and the money available to carry out the other program.

4. Money available to carry out the provisions of this section must be accounted for separately by the Department.

Sec. 2. NRS 439.600 is hereby amended to read as follows:

439.600 1. The Legislature hereby declares that its priorities in expending the proceeds to the State of Nevada from settlement agreements with and civil actions against manufacturers of tobacco products are:

(a) To increase the number of Nevada students who attend and graduate from Nevada institutions of higher education; and

(b) To assist Nevada residents in obtaining and maintaining good health.

2. To further these priorities, the Legislature hereby declares that it is in the best interest of the residents of this State that all money received by the State of Nevada pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products and all money recovered by the State of Nevada from a judgment in a civil action against a manufacturer of tobacco products be dedicated solely toward the achievement of the following goals:

(a) Increasing the number of Nevada residents who enroll in and attend a university, college or community college in the State of Nevada;

(b) Reducing and preventing the use of tobacco products, alcohol and illegal drugs, especially by children;

(c) Expanding the availability of health insurance and health care for children and adults in this State, especially for children and for adults with disabilities;

(d) Assisting senior citizens *and persons with disabilities* who have modest incomes in purchasing prescription drugs, pharmaceutical services and, to the extent money is available, other services, including, without limitation, dental and vision services, *and hearing aids or other devices that enhance the ability to hear*, and assisting those senior citizens *and persons with disabilities* in meeting their needs related to health care, home care, respite care and their ability to live independent of institutional care; and

(e) Promoting the general health of all residents of the State of Nevada.

Sec. 3. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) Fifty percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Fifty percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. ~~{Upon receiving a request from the}~~ **The** State Treasurer or the Department **may submit to the Interim Finance Committee a request** for an allocation for administrative expenses from the Fund pursuant to this section . ~~{, the Task Force for the Fund for a Healthy Nevada shall consider the request within 45 days after receipt of the request. If the Task Force approves the amount requested for allocation, the Task Force shall notify the State Treasurer of the allocation. If the Task Force does not approve the requested allocation within 45 days after receipt of the request, the State Treasurer or the Department, as applicable, may submit its request for allocation to the Interim Finance Committee.}~~ Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund ~~{, whether allocated by the Task Force or the Interim Finance Committee must not exceed:}~~ **must:**

(a) Not ~~{more than}~~ **exceed** 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; **and**

(b) Not ~~{more than}~~ **exceed** ~~{2.025}~~ 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging Services Division of the Department, to carry out its duties set forth in NRS ~~{439.625 and}~~ 439.630 , ~~{;~~

~~{(c) Not more than 1.5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department}~~ to administer the provisions of NRS 439.635 to 439.690, inclusive ~~{;}~~, and

~~{(d) Not more than 0.125 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department to administer the provisions of}~~ NRS 439.705 to 439.795, inclusive.

➡ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to the Department ~~{and, except as otherwise provided in paragraphs (c) to (f), inclusive, and (j) of subsection 1 of NRS 439.630, may only be expended pursuant to an}~~ **for expenditure or** allocation ~~{made by the Task Force for the Fund for a Healthy Nevada.}~~ **in accordance with the provisions of NRS 439.630.** Money expended from the Fund ~~{for a Healthy Nevada}~~ must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 4. NRS 439.630 is hereby amended to read as follows:

439.630 1. The ~~{Task Force for the Fund for a Healthy Nevada}~~ **Department** shall:

(a) Conduct , **or require the Grants Management Advisory Committee created by NRS 232.383 to conduct**, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

- (1) Promote public health;
 - (2) Improve health services for children, senior citizens and persons with disabilities;
 - (3) Reduce or prevent the use of tobacco;
 - (4) Reduce or prevent the abuse of and addiction to alcohol and drugs;
- and
- (5) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities ~~{ }~~ **, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.**

(c) ~~{Reserve}~~ **Allocate** not more than 30 percent of ~~{all}~~ **available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits **and hearing aids or other devices that enhance the ability to hear**, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money ~~{reserved to the Department}~~ **allocated** pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits **and hearing aids or other devices that enhance the ability to hear**, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the ~~{Task Force for the Fund for a Healthy Nevada}~~ **Legislative Committee on Health Care** **Grants Management Advisory Committee** in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, ~~{the Task Force for the Fund for a Healthy Nevada and}~~ **the Interim Finance Committee , the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate** regarding the general manner in which expenditures have been made pursuant to this paragraph . ~~{and the status of the program.}~~

(d) ~~{Reserve}~~ **Allocate, by contract or grant, for expenditure** not more than 30 percent ~~{minus \$350,000 of all}~~ **of available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for allocation by the Aging Services Division of the Department in the form of grants for existing or new

programs that assist senior citizens with independent living, including, without limitation, programs that provide:

- (1) Respite care or relief of ~~{family}~~ **informal** caretakers;
- (2) Transportation to new or existing services to assist senior citizens in living independently; and
- (3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➔ The Aging Services Division of the Department shall consider recommendations from the ~~{Task Force for the Fund for a Healthy Nevada}~~ ~~{Legislative Committee on Health Care}~~ **Grants Management Advisory Committee** concerning the independent living needs of senior citizens.

(e) ~~{Reserve not more than}~~ **Allocate** \$200,000 of all revenues deposited in the Fund ~~{for a Healthy Nevada}~~ each year for ~~{allocation}~~ **direct expenditure** by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➔ The Director shall develop policies and procedures for ~~{allocating money which is reserved}~~ **distributing the money allocated** pursuant to this paragraph. **Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.**

(f) ~~{Reserve \$150,000 of all revenues deposited in the Fund for a Healthy Nevada each year, if available, for allocation by the Aging Services Division of the Department in the form of contracts or grants for existing or new programs that provide dental benefits to persons who are domiciled in this State and are 62 years of age or older:~~

~~(1) Who satisfy the residency requirement set forth in subsection 2 of NRS 439.665; and~~

~~(2) Whose incomes are not over the amounts set forth in subsection 2 of NRS 439.665, as adjusted pursuant to the provisions of that section:~~

~~{g)}~~ **Allocate**, by contract or grant, for expenditure not more than ~~{20}~~ **15** percent of ~~{all}~~ **available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco.

~~{h)}~~ **(g)** **Allocate**, by contract or grant, for expenditure not more than 10 percent of ~~{all}~~ **available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for programs that improve health services for children.

~~{i)}~~ **(h)** **Allocate**, by contract or grant, for expenditure not more than ~~{7.5}~~ **10** percent of ~~{all}~~ **available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph,

the ~~{Task Force}~~ **Department** shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite ~~{for persons caring}~~ **care or relief of informal caretakers** for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

~~{(j) Reserve}~~

(i) Allocate not more than ~~{2.5}~~ **5** percent of ~~{all}~~ **available** revenues ~~{deposited in the Fund for a Healthy Nevada each year}~~ for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, ~~{and}~~ pharmaceutical services **and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the ~~{Task Force for the Fund for a Healthy Nevada}~~ ~~{Legislative Committee on Health Care}~~ **Grants Management Advisory Committee** in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

~~{(k)}~~ **(j)** Maximize expenditures through local, federal and private matching contributions.

~~{(l)}~~ **(k)** Ensure that any money expended from the Fund ~~{for a Healthy Nevada}~~ will not be used to supplant existing methods of funding that are available to public agencies.

~~{(m)}~~ **(l)** Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~{(n)}~~ **(m)** To make the allocations required by paragraphs **(f)**, **(g)** ~~{, and}~~ **(h)** : ~~{and (i):}~~

(1) Prioritize and quantify ~~{Review and consider the prioritized list of the needs for these programs ; submitted by the Legislative Committee on Health Care pursuant to NRS 439B.220;}~~

(2) Develop, solicit and accept applications for allocations;

(3) **Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;**

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

~~{(4)}~~ **(5)** Submit annual reports concerning the programs to the Governor, ~~{and}~~ the Interim Finance Committee ~~{,}~~ **, the Legislative**

Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~{(e)}~~ (n) Transmit a report of all findings, recommendations and expenditures to the Governor, ~~and~~ each regular session of the Legislature ~~{, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.~~

2. The ~~{Task Force}~~ **Department** may take such other actions as are necessary to carry out its duties.

3. ~~{The Department shall take all actions necessary to ensure that all allocations for expenditures made by the Task Force are carried out as directed by the Task Force.~~

~~4. }~~ To make the allocations required by ~~{paragraphs (d) and (f)}~~ **paragraph (d)** of subsection 1, the Aging Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants, contracts or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and
- (f) Submit annual reports concerning the allocations made by the Aging Services Division pursuant to ~~{paragraphs}~~ **paragraph (d)** ~~{and (f)}~~ of subsection 1 to the Governor, ~~and~~ the Interim Finance Committee ~~{, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.~~

~~{5.}~~ 4. The Aging Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging Services Division of the Department shall not expend or transfer any money allocated to the Aging Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, ~~and~~ pharmaceutical services **and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, ~~and~~ pharmaceutical services **and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

~~{6.}~~ The Department, on behalf of the Task Force, shall submit each allocation proposed pursuant to ~~paragraph (g), (h) or (i) of subsection 1~~ which would be used to expand or augment an existing state program to the

~~Interim Finance Committee for approval before the contract or grant is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money.]~~

5. *A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.*

6. *As used in this section, “available revenues” means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.*

Sec. 5. NRS 439.665 is hereby amended to read as follows:

439.665 1. The Department may:

(a) Enter into contracts with private insurers who transact health insurance in this State to subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~{ }~~ **and hearing aids or other devices that enhance the ability to hear**, for senior citizens by arranging for the availability, at a reasonable cost, of policies of health insurance that provide coverage to senior citizens for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~{ }~~ **and hearing aids or other devices that enhance the ability to hear**; or

(b) Subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~{ }~~ **and hearing aids or other devices that enhance the ability to hear**, for senior citizens in any other manner.

2. Within the limits of the money available for this purpose in the Fund for a Healthy Nevada, a senior citizen who is not eligible for Medicaid and who is eligible for a subsidy that is made available pursuant to subsection 1 is entitled to an annual grant from the Fund to subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~{ }~~ **and hearing aids or other devices that enhance the ability to hear**, if he has been domiciled in this State for at least 1 year immediately preceding the date of his application and ~~{ }~~ **except as otherwise provided in subsection 5:**

(a) If the senior citizen is single, his income is not over \$21,500; or

(b) If the senior citizen is married, his household income is not over \$28,660.

➔ The monetary amounts set forth in this subsection must be adjusted for each fiscal year by adding to each amount the product of the amount shown multiplied by the percentage increase in the Consumer Price Index from

December 2002 to the December preceding the fiscal year for which the adjustment is calculated.

3. The subsidy granted pursuant to this section must not exceed the annual cost of prescription drugs, pharmaceutical services and ***to the extent money is available, other benefits , including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,*** provided to the senior citizen.

4. A subsidy that is made available pursuant to subsection 1 must provide for:

(a) A copayment of not more than \$10 per prescription drug or pharmaceutical service that is generic as set forth in the formulary of the insurer or as set forth by the Department; and

(b) A copayment of not more than \$25 per prescription drug or pharmaceutical service that is preferred as set forth in the formulary of the insurer or as set forth by the Department.

5. The Department may waive the eligibility requirement set forth in subsection 2 regarding household income upon written request of the applicant or enrollee based on one or more of the following circumstances:

(a) Illness;

(b) Disability; or

(c) Extreme financial hardship, when considering the current financial circumstances of the applicant or enrollee.

➔ An applicant or enrollee who requests such a waiver shall include with that request all medical and financial documents that support his request.

6. If the Federal Government provides any coverage for:

(a) Prescription drugs and pharmaceutical services; or

(b) Other benefits, including, without limitation, dental or vision benefits ***or hearing aids or other devices that enhance the ability to hear,***

➔ for senior citizens who are eligible for a subsidy pursuant to subsections 1 to 5, inclusive, the Department may, upon approval of the Legislature, or the Interim Finance Committee if the Legislature is not in session, change any program established pursuant to NRS 439.635 to 439.690, inclusive, and otherwise provide assistance with prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ***and hearing aids or other devices that enhance the ability to hear,*** for senior citizens within the limits of the money available for this purpose in the Fund . ~~{for a Healthy Nevada.}~~

7. The provisions of subsections 1 to 5, inclusive, do not apply to the extent that the Department provides assistance ***with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,*** for senior citizens pursuant to subsection 6.

8. ***A veteran may receive assistance with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance***

the ability to hear, pursuant to this section to the extent that the veteran does not receive other services or benefits provided to veterans for the same purpose if the veteran qualifies for the assistance as a senior citizen.

Sec. 6. NRS 439.745 is hereby amended to read as follows:

439.745 1. The Department may:

(a) Enter into contracts with private insurers who transact health insurance in this State to subsidize the cost of prescription drugs , ~~and~~ pharmaceutical services **and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** for persons with disabilities by arranging for the availability, at a reasonable cost, of policies of health insurance that provide coverage to persons with disabilities for prescription drugs , ~~and~~ pharmaceutical services ~~;~~ **and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear;** or

(b) Subsidize the cost of prescription drugs , ~~and~~ pharmaceutical services **and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** for persons with disabilities in any other manner.

2. Within the limits of the money available for this purpose in the Fund for a Healthy Nevada, a person with a disability who is not eligible for Medicaid and who is eligible for a subsidy for the cost of prescription drugs , ~~and~~ pharmaceutical services **and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear** that is made available pursuant to subsection 1 is entitled to an annual grant from the Fund to subsidize the cost of prescription drugs , ~~and~~ pharmaceutical services ~~;~~ **and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,** if he has been domiciled in this State for at least 1 year immediately preceding the date of his application and ~~;~~ **except as otherwise provided in subsection 5:**

(a) If the person with a disability is single, his income is not over \$21,500; or

(b) If the person with a disability is married, his household income is not over \$28,660.

↪ The monetary amounts set forth in this subsection must be adjusted for each fiscal year by adding to each amount the product of the amount shown multiplied by the percentage increase in the Consumer Price Index from December 2002 to the December preceding the fiscal year for which the adjustment is calculated.

3. The subsidy granted pursuant to this section must not exceed the annual cost of prescription drugs , ~~and~~ pharmaceutical services **and, to the extent money is available, other benefits, including, without limitation,**

dental and vision benefits and hearing aids or other devices that enhance the ability to hear, provided to the person with a disability.

4. A subsidy that is made available pursuant to subsection 1 must provide for:

(a) A copayment of not more than \$10 per prescription drug or pharmaceutical service that is generic as set forth in the formulary of the insurer or as set forth by the Department; and

(b) A copayment of not more than \$25 per prescription drug or pharmaceutical service that is preferred as set forth in the formulary of the insurer or as set forth by the Department.

5. The Department may waive the eligibility requirement set forth in subsection 2 regarding household income upon written request of the applicant or enrollee based on one or more of the following circumstances:

(a) Illness;

(b) Disability; or

(c) Extreme financial hardship, when considering the current financial circumstances of the applicant or enrollee.

➔ An applicant or enrollee who requests such a waiver shall include with that request all medical and financial documents that support his request.

6. If the Federal Government provides any coverage ~~{of prescription}~~ for:

(a) Prescription drugs and pharmaceutical services ; ***or***

(b) Other benefits, including, without limitation, dental or vision benefits or hearing aids or other devices that enhance the ability to hear,

➔ for persons with disabilities who are eligible for a subsidy pursuant to subsections 1 to 5, inclusive, the Department may, upon approval of the Legislature, or the Interim Finance Committee if the Legislature is not in session, change any program established pursuant to NRS 439.705 to 439.795, inclusive, and otherwise provide assistance with prescription drugs , ~~{and}~~ pharmaceutical ***services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,*** for persons with disabilities within the limits of the money available for this purpose in the Fund . ~~{for a Healthy Nevada.}~~

7. The provisions of subsections 1 to 5, inclusive, do not apply if the Department provides assistance with prescription drugs , ~~{and}~~ ***pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,*** for persons with disabilities pursuant to subsection 6.

8. ***A veteran may receive assistance with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, pursuant to this section to the extent that the veteran does not receive other services or benefits provided to veterans for the same purpose if the veteran qualifies for the assistance as a person with a disability.***

Sec. 7. (Deleted by amendment.)

Sec. 8. ~~{NRS 439B.220 is hereby amended to read as follows:~~

~~439B.220 1. The Committee may:~~

~~{1.} (a) Review and evaluate the quality and effectiveness of programs for the prevention of illness;~~

~~{2.} (b) Review and compare the costs of medical care among communities in Nevada with similar communities in other states;~~

~~{3.} (c) Analyze the overall system of medical care in the State to determine ways to coordinate the providing of services to all members of society, avoid the duplication of services and achieve the most efficient use of all available resources;~~

~~{4.} (d) Examine the business of providing insurance, including the development of cooperation with health maintenance organizations and organizations which restrict the performance of medical services to certain physicians and hospitals, and procedures to contain the costs of these services;~~

~~{5.} (e) Examine hospitals to:~~

~~{(a)} (1) Increase cooperation among hospitals;~~

~~{(b)} (2) Increase the use of regional medical centers; and~~

~~{(c)} (3) Encourage hospitals to use medical procedures which do not require the patient to be admitted to the hospital and to use the resulting extra space in alternative ways;~~

~~{6.} (f) Examine medical malpractice;~~

~~{7.} (g) Examine the system of education to coordinate:~~

~~{(a)} (1) Programs in health education, including those for the prevention of illness and those which teach the best use of available medical services; and~~

~~{(b)} (2) The education of those who provide medical care;~~

~~{8.} (h) Review competitive mechanisms to aid in the reduction of the costs of medical care;~~

~~{9.} (i) Examine the problem of providing and paying for medical care for indigent and medically indigent persons, including medical care provided by physicians;~~

~~{10.} (j) Examine the effectiveness of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services, and its effect on the subjects listed in [subsections 1 to 9,] paragraphs (a) to (i), inclusive;~~

~~{11.} (k) Determine whether regulation by the State will be necessary in the future by examining hospitals for evidence of:~~

~~{(a)} (1) Degradation or discontinuation of services previously offered, including without limitation, neonatal care, pulmonary services and pathology services; or~~

~~{(b)} (2) A change in the policy of the hospital concerning contracts, as a result of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services;~~

~~{12.} (l) Study the effect of the acuity of the care provided by a hospital upon the revenues of the hospital and upon limitations upon that revenue.~~

~~{13.} (m) Review the actions of the Director in administering the provisions of this chapter and adopting regulations pursuant to those provisions. The Director shall report to the Committee concerning any regulations proposed or adopted pursuant to this chapter.~~

~~{14.} (n) Identify and evaluate, with the assistance of an advisory group, the alternatives to institutionalization for providing long term care, including, without limitation:~~

~~[(a)] (1) An analysis of the costs of the alternatives to institutionalization and the costs of institutionalization for persons receiving long term care in this State;~~

~~[(b)] (2) A determination of the effects of the various methods of providing long term care services on the quality of life of persons receiving those services in this State;~~

~~[(c)] (3) A determination of the personnel required for each method of providing long term care services in this State; and~~

~~[(d)] (4) A determination of the methods for funding the long term care services provided to all persons who are receiving or who are eligible to receive those services in this State.~~

~~{15.} (o) Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to integrate and coordinate acute care services provided through Medicare and long term care services provided through Medicaid in this State.~~

~~{16.} (p) Evaluate, with the assistance of an advisory group, the feasibility of obtaining a waiver from the Federal Government to eliminate the requirement that elderly persons in this State impoverish themselves as a condition of receiving assistance for long term care.~~

~~{17.} (q) Conduct investigations and hold hearings in connection with its review and analysis.~~

~~{18.} (r) Apply for any available grants and accept any gifts, grants or donations to aid the Committee in carrying out its duties pursuant to this chapter.~~

~~{19.} (s) Direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis.~~

~~{20.} (t) Recommend to the Legislature as a result of its review any appropriate legislation.~~

~~2. The Committee shall:~~

~~(a) Prioritize the needs for the programs for the receipt of awards of money pursuant to paragraphs (f), (g) and (h) of subsection 1 of NRS 439.630 and deliver to the Department and the Grants Management Advisory Committee created by NRS 232.383 a list of those priorities; and~~

~~(b) Make recommendations to the Aging Services Division of the Department concerning the independent living needs of senior citizens for~~

~~purposes of allocating money pursuant to paragraph (d) of subsection 1 of NRS 439.630.~~ **(Deleted by amendment.)**

Sec. 9. NRS 232.383 is hereby amended to read as follows:

232.383 1. The Grants Management Advisory Committee is hereby created within the Department.

2. The Advisory Committee consists of the following ~~{11}~~ **15** members appointed by the Director:

- (a) A superintendent of a county school district ~~{;} or his designee;~~
- (b) A director of a local agency ~~{providing}~~ **which provides** services for abused or neglected children ~~{;}~~
- ~~{(c) A representative of a community organization involved with} , or his designee;~~
- (c) A member who possesses knowledge, skill and experience in the provision of services to children;**
- (d) A representative of a department of juvenile justice services;
- (e) A member who possesses knowledge, skill and experience in the provision of services to senior citizens;
- (f) Two members who possess knowledge, skill and experience in finance or in business generally;
- (g) A representative of the Nevada Association of Counties;
- (h) ~~{A representative of a broad-based nonprofit organization}~~ **A member** who possesses knowledge, skill and experience in ~~{collaborating with the community and in}~~ building partnerships between the public sector and the private sector; ~~{and}~~
- (i) Two members of the public who possess knowledge of or experience in the provision of services to persons or families who are disadvantaged or at risk ~~{;}~~
- (j) A member who possesses knowledge, skill and experience in the provision of services to persons with disabilities;**
- (k) A member who possesses knowledge, skill and experience in the provision of services relating to the cessation of the use of tobacco;**
- (l) A member who possesses knowledge, skill and experience in the provision of health services to children; and**
- (m) A representative who is a member of the Nevada Commission on Aging, created by NRS 427A.032, who must not be a Legislator.**

3. **An entity who employs a member of the Advisory Committee is not eligible to receive a grant. This subsection does not prohibit an entity that serves solely as the fiscal agent for a recipient of a grant from employing a member of the Advisory Committee.**

~~{3.}~~ 4. The Director shall ensure that, insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.

~~{4.}~~ 5. After the initial terms, each member of the Advisory Committee serves for a term of 2 years. Each member of the Advisory Committee continues in office until his successor is appointed.

~~{5.}~~ 6. Each member of the Advisory Committee who is not an officer or employee of this State or a political subdivision of this State is entitled to receive a salary of not more than \$80 per day, fixed by the Director, while engaged in the business of the Advisory Committee.

~~{6.}~~ 7. While engaged in the business of the Advisory Committee, each member of the Advisory Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~{7.}~~ 8. A majority of the members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Advisory Committee.

~~{8.}~~ 9. 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:

(a) Make up the time he is absent from work to carry out his duties as a member of the Advisory Committee; or

(b) Take annual leave or compensatory time for the absence.

~~{9.}~~ 10. The Advisory Committee shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its members;

(b) Meet at the call of the Director, the Chairman or a majority of its members as necessary, within the budget of the Advisory Committee, but not to exceed six meetings per year; and

(c) Adopt rules for its own management and government.

Sec. 10. NRS 232.385 is hereby amended to read as follows:

232.385 The Grants Management Advisory Committee created by NRS 232.383 shall:

1. Review all requests received by the Department for awards of money from agencies of the State or its political subdivisions and nonprofit community organizations or educational institutions which provide or will provide services to persons served by the programs administered by the Department;

2. Submit recommendations to the Director concerning each request for an award of money that the Advisory Committee believes should be granted, including, without limitation, the name of the agency, nonprofit community organization or educational institution that submitted the request;

3. Adopt policies setting forth criteria to determine which agencies, organizations and institutions to recommend for an award of money;

4. Monitor awards of money granted by the Department to agencies of the State or its political subdivisions, and nonprofit community organizations or educational institutions which provide or will provide services to persons served by the programs administered by the Department ~~[-]~~ , **including, without limitation, awards of money granted pursuant to NRS 439.630;**

5. Assist the staff of the Department in determining the needs of local communities and in setting priorities for funding programs administered by the Department; and

6. Consider funding strategies for the Department, including, without limitation, seeking ways to avoid unnecessary duplication of the services for which awards of money to agencies of the State or its political subdivisions and nonprofit community organizations or educational institutions are granted, and make recommendations concerning funding strategies to the Director.

Sec. 11. NRS 439.625 is hereby repealed.

Sec. 12. Any money allocated or reserved for direct expenditure pursuant to paragraph (f) of subsection 1 of NRS 439.630 on or before June 30, 2007, that is unspent and returned must be allocated, on and after July 1, 2007, in accordance with the amendatory provisions of paragraph (c) of subsection 1 of NRS 439.630.

Sec. 13. 1. The term of the member of the Grants Management Advisory Committee who is a representative of a:

(a) Broad-based nonprofit organization who possesses knowledge, skill and experience in collaborating with the community and in building partnerships between the public sector and the private sector expires on June 30, 2007.

(b) Community organization involved with children expires on June 30, 2007.

2. The Director of the Department of Health and Human Services shall appoint one member to the Grants Management Advisory Committee pursuant to NRS 232.383, as amended by section 9 of this act, who:

(a) Possesses knowledge, skill and experience in the provision of services to persons with disabilities whose term begins on July 1, 2007, and expires on June 30, 2008.

(b) Possesses knowledge, skill and experience in the provision of services relating to the cessation of the use of tobacco whose term begins on July 1, 2007, and expires on June 30, 2009.

(c) Possesses knowledge, skill and experience in the provision of health services to children whose term begins on July 1, 2007, and expires on June 30, 2009.

(d) Is a member of the Nevada Commission on Aging whose term begins on July 1, 2007, and expires on June 30, 2008.

(e) Possesses knowledge, skill and experience in the provision of services to children begins on July 1, 2007, and expires on June 30, 2008.

(f) Possesses knowledge, skill and experience in building partnerships between the public sector and the private sector begins on July 1, 2007, and expires on June 30, 2009.

Sec. 14. The Legislative Committee on Health Care shall examine and review the allocations of money from the Fund for a Healthy Nevada pursuant to NRS 439.630 to determine whether the allocations reflect the needs of this State and the residents of this State. The examination and review must consider whether the money allocated for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco should be reduced and determine whether such money should be allocated directly to the Health Division of the Department of Health and Human Services and the district boards of health in counties whose population is 50,000 or more.

Sec. 15. Notwithstanding the provisions of this act, an award of money granted by the Task Force for the Fund for a Healthy Nevada pursuant to NRS 439.630 on or before June 30, 2007, remains in effect and the Grants Management Advisory Committee shall monitor the award of money pursuant to NRS 232.385.

Sec. 16. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

439.625 Task Force for Fund: Creation; membership; selection and term of Chairman and Vice Chairman; compensation of members; relief from regular duties of member who is officer or employee of local government; administrative support and technical assistance.

1. The Task Force for the Fund for a Healthy Nevada is hereby created. The membership of the Task Force consists of:

(a) Three members appointed by the Majority Leader of the Senate, one of whom must be a Senator and one of whom must be a member of a nonprofit organization dedicated to health issues in this State;

(b) Three members appointed by the Speaker of the Assembly, one of whom must be an Assemblyman and one of whom must be a member of a nonprofit organization dedicated to health issues in this State; and

(c) Three members appointed by the Governor, one of whom must have experience with and knowledge of matters relating to health care.

↪ Each member appointed pursuant to this subsection must be a resident of this State and must not be employed in the Executive or Judicial Branch of State Government. Each person who appoints members pursuant to this subsection shall ensure that insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.

2. At its first meeting on or after July 1 of each odd-numbered year, the Task Force shall select the Chairman and Vice Chairman of the Task Force from among the legislative members of the Task Force. Each such officer shall hold office for a term of 2 years or until his successor is selected. The

chairmanship of the Task Force must alternate each biennium between the houses of the Legislature.

3. For each day or portion of a day during which a member of the Task Force who is a Legislator attends a meeting of the Task Force or is otherwise engaged in the work of the Task Force, except during a regular or special session of the Legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

➡ The compensation, per diem allowances and travel expenses of the legislative members of the Task Force must be paid from the Legislative Fund.

4. Members of the Task Force who are not Legislators serve without salary, except that they are entitled to receive travel expenses provided for state officers and employees generally. The travel expenses of:

(a) A member of the Task Force who is an officer or employee of a local government thereof must be paid by the local government that employs him.

(b) Each remaining member of the Task Force must be paid from the Legislative Fund.

5. Each member of the Task Force who is an officer or employee of a local government must be relieved from his duties without loss of his regular compensation so that he may perform his duties relating to the Task Force in the most timely manner practicable. A local government shall not require an officer or employee who is a member of the Task Force to:

(a) Make up the time he is absent from work to fulfill his obligations as a member of the Task Force; or

(b) Take annual leave or compensatory time for the absence.

6. The Legislative Counsel Bureau and the Department shall provide such administrative support to the Task Force as is required to carry out the duties of the Task Force. The State Health Officer shall provide such technical advice and assistance to the Task Force as is requested by the Task Force.

Assemblywoman McClain moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 182.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 428, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 948 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 26, which is attached to and hereby made a part of this report.

DAVID PARKS
BERNIE ANDERSON
EDWIN GOEDHART

Assembly Conference Committee

MARK AMODEI
MAURICE WASHINGTON
TERRY CARE

Senate Conference Committee

Conference Amendment No. CA26.

SUMMARY—Makes various changes relating to crimes involving the unlawful use of personal identifying information of another person ~~and~~ **crimes related to postal matters.** (BDR 15-1334)

AN ACT relating to ~~[personal identifying information];~~ **crimes;** prohibiting the use of certain personal identifying information of another to obtain any other personal identifying information of that person without the prior express consent of the person; increasing the penalty for possessing, selling, transferring or obtaining and using the personal identifying information of another person under certain circumstances; creating a rebuttable inference of the intent to use the personal identifying information of another person unlawfully under certain circumstances; allowing a postal inspector of the United States Postal Inspection Service to make arrests ~~[without a warrant]~~ **for crimes related to postal matters** under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the use of the personal identifying information of another to harm that person or to obtain credit, a good, a service or anything of value in the name of that other person. (NRS 205.4617, 205.463, 205.464, 205.465) Section 1 of this bill provides that personal identifying information includes, without limitation, any information that can be used to identify the actions, communications or other activities or transactions of a person. (NRS 205.4617) Section 2 of this bill provides that a person who uses the personal identifying information of another, with the intent to commit an unlawful act, to: (1) represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person, or (2) obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person is guilty of a category B felony. (NRS 205.463)

Sections 2, 3 and 4 of the bill also: (1) increase the penalties for using the personal identifying information of another person if the violation involves the personal identifying information of five or more persons or if the violation causes the victim to suffer a financial loss of \$3,000 or more; and (2) create a rebuttable inference of the intent to use the personal identifying information of another person unlawfully if a person possesses the personal identifying information of five or more persons not in the ordinary course of

his business or pursuant to a financial transaction entered into with an authorized user of a payment card.

Under existing law, arrests without a warrant may be made under certain circumstances by peace officers, officers of the Drug Enforcement Administration, agents of the Federal Bureau of Investigation or the Secret Service, officers of the Bureau of Indian Affairs or persons employed as police officers by an Indian tribe. (NRS 171.124, 171.1245, 171.1255) Section 5 of this bill allows a postal inspector of the United States Postal Inspection Service to also make arrests **for certain crimes related to postal matters with or** without a warrant under certain circumstances.

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

Section 1. NRS 205.4617 is hereby amended to read as follows:

205.4617 1. Except as otherwise provided in subsection 2, “personal identifying information” means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a living or deceased person ~~or~~ **or to identify the actions taken, communications made or received by, or other activities or transactions of a living or deceased person,** including, without limitation:

(a) The current or former name, driver’s license number, identification card number, social security number, checking account number, savings account number, credit card number, debit card number, financial services account number, date of birth, place of employment and maiden name of the mother of a person.

(b) The unique biometric data of a person, including, without limitation, the fingerprints, facial scan identifiers, voiceprint, retina image and iris image of a person.

(c) The electronic signature, unique electronic identification number, address or routing code, telecommunication identifying information or access device of a person.

(d) The personal identification number or password of a person.

(e) The alien registration number, government passport number, employer identification number, taxpayer identification number, Medicaid account number, food stamp account number, medical identification number or health insurance identification number of a person.

(f) The number of any professional, occupational, recreational or governmental license, certificate, permit or membership of a person.

(g) The number, code or other identifying information of a person who receives medical treatment as part of a confidential clinical trial or study, who participates in a confidential clinical trial or study involving the use of prescription drugs or who participates in any other confidential medical, psychological or behavioral experiment, study or trial.

(h) The utility account number of a person.

2. To the extent that any information listed in subsection 1 is designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify an artificial person, “personal identifying information” includes information pertaining to an artificial person.

Sec. 2. NRS 205.463 is hereby amended to read as follows:

205.463 1. Except as otherwise provided in subsections 2 and 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and
 (b) ~~{Uses}~~ ***With the intent to commit an unlawful act, uses*** the personal identifying information ~~{to}~~ :

(1) ***To*** harm that other person ;

(2) ***To represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person;***

(3) ***To obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person;*** or ~~{for}~~

(4) ***For*** any ***other*** unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that *other* person,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

2. Except as otherwise provided in subsection 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and
 (b) Uses the personal identifying information to avoid or delay being prosecuted for an unlawful act,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates:

(a) Subsection 1 or 2 by obtaining and using the personal identifying information of an older person or a vulnerable person; ~~{or}~~

(b) Subsection ***1 or 2 by obtaining and using the personal identifying information of five or more persons;***

(c) ***Subsection 1 or 2 by causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation; or***

(d) ***Subsection 2*** to avoid or delay being prosecuted for an unlawful act that is punishable as a category A felony or category B felony,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. In addition to any other penalty, the court shall order a person convicted of violating subsection 1 to pay restitution, including, without limitation, any attorney's fees and costs incurred to:

(a) Repair the credit history or rating of the person whose personal identifying information he obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information he obtained and used in violation of subsection 1.

5. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 3. NRS 205.464 is hereby amended to read as follows:

205.464 1. Except as otherwise provided in subsection 2, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Uses the personal identifying information to harm that other person or for any unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that person,

➡ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

2. A public officer or public employee who violates subsection 1 by ~~obtaining~~ :

(a) Obtaining and using the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and using the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation,

➡ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 7 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

3. Except as otherwise provided in subsection 4, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Possesses, sells or transfers the personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person,

➡ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. A public officer or public employee who violates subsection 3 by ~~obtaining~~ :

(a) Obtaining and possessing, selling or transferring the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and possessing, selling or transferring the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation,

➡ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

5. Except as otherwise provided in subsection 6, a public officer or public employee who knowingly aids another public officer or public employee to commit a violation of any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A public officer or public employee who violates subsection 5 by knowingly aiding another public officer or public employee in committing a violation of this section by ~~obtaining~~ :

(a) Obtaining the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation,

➡ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

7. The provisions of this section do not prohibit the possession or use of any personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

8. In addition to any other penalty, the court shall order a public officer or public employee convicted of violating any provision of this section to pay restitution, including, without limitation, any attorney's fees and costs incurred, to:

(a) Repair the credit history or rating of the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information the public officer or public employee obtained and used in violation of this section.

9. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 4. NRS 205.465 is hereby amended to read as follows:

205.465 1. It is unlawful for a person to possess, sell or transfer any document or personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person.

2. Except as otherwise provided in subsection 3, a person who:

(a) Sells or transfers any such document or personal identifying information in violation of subsection 1; or

(b) Possesses any such document or personal identifying information in violation of subsection 1 to commit any of the crimes set forth in NRS 205.085 to 205.217, inclusive, 205.473 to 205.513, inclusive, or 205.610 to 205.810, inclusive,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates subsection 2 by ~~{selling}~~ :

(a) **Selling** or transferring the personal identifying information of an older person or a vulnerable person ;

(b) **Selling or transferring the personal identifying information of five or more persons; or**

(c) **Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation,**

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. Except as otherwise provided in this subsection and subsections 2 and 3, a person who possesses any such document or personal identifying information in violation of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130. If a person possesses any such document or personal identifying information in violation of subsection 1 for the sole purpose of establishing false proof of age, including, without limitation, establishing false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

5. Subsection 1 does not:

(a) Preclude the adoption by a city or county of an ordinance prohibiting the possession of any such document or personal identifying information; or

(b) Prohibit the possession or use of any such document or personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

6. *Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.*

Sec. 5. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A postal inspector of the United States Postal Inspection Service may ~~not~~ make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person:

~~1.1~~ (a) For a public offense related to postal matters committed or attempted in his presence.

~~2.1~~ (b) When the person arrested has committed a felony or gross misdemeanor ~~not~~ related to postal matters, although not in his presence.

~~3.1~~ (c) When a felony or gross misdemeanor related to postal matters has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

~~4.1~~ (d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor related to postal matters by the person arrested.

~~5.1~~ (e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense ~~not~~ related to postal matters, and he has reasonable cause to believe that the person arrested is the person so named or described.

2. As used in this section, "postal matters" means any act related to mail service, including, without limitation, delivering and collecting mail, mail theft and mail fraud.

Assemblyman Parks moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 428.

Remarks by Assemblyman Parks.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 432.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Senate Bill No. 432, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 723 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 25, which is attached to and hereby made a part of this report.

MARCUS CONKLIN
MARILYN KIRKPATRICK

GARN MABEY
Assembly Conference Committee

MICHAEL SCHNEIDER
WARREN HARDY
RANDOLPH TOWNSEND
Senate Conference Committee

Conference Amendment No. CA25.

SUMMARY—Directs the Legislative ~~[Committee on Health Care to appoint a subcommittee to conduct a review]~~ **Commission to provide for a study** concerning alternative and complementary integrative medicine, homeopathic medicine and nonembryonic stem cells and eliminates the Nevada Institutional Review Board. (BDR 54-694)

AN ACT relating to health; eliminating the Nevada Institutional Review Board; directing the Legislative ~~[Committee on Health Care to appoint a subcommittee to conduct a review]~~ **Commission to provide for a study** concerning alternative and complementary integrative medicine, homeopathic medicine and the use of nonembryonic stem cells in bioregenerative medical technology; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the practice of homeopathic medicine and the operation of the Nevada Institutional Review Board. (Chapter 630A of NRS) Sections 1-4 **and 6** of this bill eliminate the Nevada Institutional Review Board ~~[-~~.

~~The Legislative Committee on Health Care is a permanent statutory committee of Legislators that meets during the interim between legislative sessions to study various issues relating to health care. (NRS 439B.200-439B.240)) as of July 1, 2009, and restrict the activities of the Nevada Institutional Review Board until that date.~~

Section 5 of this bill requires the ~~[Committee to appoint a subcommittee to review issues relating to]~~ **Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning** alternative and complementary integrative medicine, homeopathic medicine and the use of nonembryonic stem cells in bioregenerative medical technology.

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

Section 1. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. ~~[Except as otherwise provided in NRS 630A.800 to 630A.910, inclusive, this]~~ **This** chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 2. NRS 630A.155 is hereby amended to read as follows:

630A.155 The Board shall:

1. Regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State.

2. Determine the qualifications of, and examine, applicants for licensure or certification pursuant to this chapter, and specify by regulation the methods to be used to check the background of such applicants.

3. License or certify those applicants it finds to be qualified.

4. Investigate and, if required, hear and decide in a manner consistent with the provisions of chapter 622A of NRS all complaints made against any homeopathic physician, advanced practitioner of homeopathy, homeopathic assistant or any agent or employee of any of them, or any facility where the primary practice is homeopathic medicine. If a complaint concerns a practice which is within the jurisdiction of another licensing board or any other possible violation of state law, the Board shall refer the complaint to the other licensing board.

5. ~~[Supervise the Nevada Institutional Review Board created by NRS 630A.865, including, without limitation, approving or denying the regulations adopted by the Nevada Institutional Review Board.~~

6.] Submit an annual report to the Legislature and make recommendations to the Legislature concerning the enactment of legislation relating to alternative and complementary integrative medicine, including, without limitation, homeopathic medicine.

Sec. 3. NRS 630A.800, 630A.815, 630A.825, 630A.835, 630A.855, 630A.865, 630A.870, 630A.875, 630A.880, 630A.900, 630A.905 and 630A.910 are hereby repealed.

Sec. 4. 1. **The Nevada Institutional Review Board shall not, during the period beginning upon passage and approval of this act and ending on July 1, 2009, meet or otherwise exercise any of the powers or duties authorized pursuant to chapter 630A of NRS, except:**

(a) **As otherwise provided in subsection 2; or**

(b) **As necessary to carry out the provisions of subsections 3 to 8, inclusive.**

2. **If the Legislative Commission determines that it is in the best interests of this State, the Legislative Commission may, during the period described in subsection 1, authorize the Nevada Institutional Review Board to contract with a private company to conduct studies or other work related to nonembryonic stem cells in bioregenerative medical technology.**

3. The Nevada Institutional Review Board shall, not later than July 1, ~~{2007-}~~ **2009:**

(a) Return the unexpended portion of any grant, gift, appropriation or donation that was received by the Board subject to a condition that requires its return if it cannot be used to carry out the duties of the Board;

(b) Transfer any money that remains in any account maintained by the Nevada Institutional Review Board after complying with paragraph (a) to the Board of Homeopathic Medical Examiners; and

(c) Transfer all books, records, minutes, documents and other property of the Nevada Institutional Review Board to the Board of Homeopathic Medical Examiners.

~~{2-}~~ 4. Any regulations adopted by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, are void on July 1, ~~{2007-}~~ **2009**. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, ~~{2007-}~~ **2009**.

~~{3-}~~ 5. Any contract entered into by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, including, without limitation, a contract for employment and a contract for the services of a person pursuant to NRS 284.013, that is not fully performed on July 1, ~~{2007-}~~ **2009**, is void.

~~{4-}~~ 6. If the Board of Homeopathic Medical Examiners has created a nonprofit organization pursuant to NRS 630A.875, including, without limitation, the NIRB Medical Foundation, the Board of Homeopathic Medical Examiners shall, not later than July 1, ~~{2007-}~~ **2009**, dissolve the nonprofit organization.

~~{5-}~~ 7. The Nevada Institutional Review Board shall cooperate with the Board of Homeopathic Medical Examiners to ensure that the provisions of this act are carried out in an orderly manner.

~~[6.]~~ 8. The terms of the members of the Nevada Institutional Review Board expire on July 1, ~~[2007.]~~ **2009.**

Sec. 5. 1. The Legislative ~~[Committee on Health Care shall appoint a subcommittee to review issues]~~ **Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau** concerning alternative and complementary integrative medicine, homeopathic medicine and the use of nonembryonic stem cells in bioregenerative medical technology. ~~[The subcommittee must consist of:~~

~~(a) One member of the Legislative Committee on Health Care who is a member of the Senate appointed by the Chairman of that Committee;~~

~~(b) Two members of the Legislative Committee on Health Care who are members of the Assembly appointed by the Chairman of that Committee;~~

~~(c) Two members of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee; and~~

~~(d) One member of the Assembly Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.~~

~~2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman of the subcommittee.~~

~~3. The review.]~~

2. The study must include, without limitation:

(a) A review of the status and operation of the Board of Homeopathic Medical Examiners;

(b) An examination of the practice of alternative and complementary integrative medicine, including:

(1) The scope of the practice;

(2) Any laws governing the practice; and

(3) The importance, benefits and value of the practice to this State and the residents of and visitors to this State;

(c) An examination of the potential for and advisability of an independent board and statutory structure to govern the practice of alternative and complementary integrative medicine; and

(d) An examination of the use of nonembryonic stem cells in bioregenerative medical technology, including, without limitation, methods to encourage the performance in this State of research and development concerning the use of nonembryonic stem cells.

~~[4.]~~ 3. Not later than June 30, 2008, the ~~[subcommittee]~~ **staff of the Legislative Counsel Bureau** shall submit a report of the results of its ~~[review]~~ **study** and any recommendations for legislation to the Legislative ~~[Committee on Health Care. The Legislative Committee on Health Care]~~ **Commission. The Legislative Commission** shall submit the report of the results of the ~~[review]~~ **study** and any recommendations for legislation to the 75th Session of the Nevada Legislature.

Sec. 6. 1. This section and section 4 of this act become effective upon passage and approval.

2. ~~Sections 1, 2, 3 and~~ Section 5 of this act ~~become~~ becomes effective on July 1, 2007.

3. Sections 1, 2 and 3 of this act become effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

630A.800 Definitions.

630A.815 "Practitioner" defined.

630A.825 "Research study" defined.

630A.835 "Researcher" defined.

630A.855 Applicability.

630A.865 Creation; supervision; appointment of members; period of service; vacancies; per diem allowance and travel expenses; quorum; officers; meetings; rules of procedure.

630A.870 Oath.

630A.875 Funding of Review Board; limitations.

630A.880 Deposit and use of money received by Review Board.

630A.900 Adoption of regulations.

630A.905 Administrative powers and duties.

630A.910 Requirements governing researchers and research studies.

Assemblyman Conklin moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 432.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 148, 197, 200, 203, 204, 206, 271, 272, 275, 440, 462, 508, 539, 551, 584, 615, 618, 626, 627; Senate Bills Nos. 19, 38, 55, 201, 250, 251, 252, 462, 463, 467, 468, 555 and 573.

Assemblyman Ocegüera moved that the Assembly adjourn until Monday, June 4, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 8:26 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly