

**THE ONE HUNDRED AND ELEVENTH DAY**

---

CARSON CITY (Saturday), May 23, 2009

Assembly called to order at 11:32 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter, Christensen, and Mortenson, who were excused.

Prayer by the Chaplain, April Mastroluca.

Romans 8:18: For I consider the sufferings of this present time are not worthy to be compared with the glory which shall be revealed in us.

Will you please pray with me?

Heavenly Father, today we come to You as Your servants. We have made some tough decisions, decisions that we hope will help to relieve the suffering of the people we were elected to represent. Please guide our hearts and minds to make the best possible choices every time we come together in these chambers to do the work of the people of Nevada.

Lord, no one here does the work alone. We are surrounded with a wonderful staff and we ask for Your blessing on every person in this building and allow Your Spirit to shine in their hearts to encourage them as we finish these important tasks. Please bless our families and keep watch over them while we are away from home, and for those of us traveling this weekend to be with our loved ones, please bless our journey with safety.

We are surrounded by many blessings, and we must remember to be thankful always. Blessings are not just the beauty that surrounds us, the health we enjoy, and the people in our lives. Sometimes blessings do not appear until we take the time to look for them. Help us to see the blessings You have provided, let us see one another through Your eyes, and remember that every person is a child of Yours. It is in Your Son's Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin 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.

**MESSAGES FROM THE SENATE**

SENATE CHAMBER, Carson City, May 22, 2009

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 10, 111, 227, 254, 283, 337, 349, 359, 426, 548.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 3, Amendment No. 892; Assembly Bill No. 60, Amendment No. 787; Assembly Bill No. 152, Amendment No. 770; Assembly Bill No. 162, Amendments Nos. 699, 908; Assembly Bill No. 181, Amendment No. 740; Assembly Bill No. 215, Amendments Nos. 767, 817; Assembly Bill No. 287, Amendments Nos. 696, 911; Assembly Bill No. 314, Amendment No. 765; Assembly Bill No. 319, Amendment No. 739; Assembly Bill No. 378, Amendments Nos. 679, 888; Assembly Bill No. 381, Amendments Nos. 915, 764; Assembly Bill No. 474, Amendments Nos. 726, 903; Assembly Bill No. 478, Amendments Nos. 798, 882; Assembly Bill No. 535, Amendment No. 707; Assembly Joint

Resolution No. 5, Amendment No. 757, 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. 130, Amendments Nos. 792, 923; Assembly Bill No. 218, Amendments Nos. 918, 933, 931, 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 adopted the report of the Conference Committee concerning Assembly Bill No. 463.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 704 to Senate Bill No. 60; Assembly Amendment No. 862 to Senate Bill No. 108; Assembly Amendments Nos. 706, 846 to Senate Bill No. 137; Assembly Amendment No. 902 to Senate Bill No. 245.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### UNFINISHED BUSINESS

##### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 319.

The following Senate amendment was read:

Amendment No. 739.

AN ACT relating to education; prescribing certain rights for school employees; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Sections 7 and 8** of this bill provide specified rights for a school employee in a meeting with an administrator or representative of a school district which may result in disciplinary action against the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated. **Section 8.5 of this bill provides that an unlicensed employee may be suspended with loss of pay at any time after a due process hearing has been held and requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist.** **Section 11** of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights provided by **sections 2-11** of this bill.

~~[ Section 12 of this bill imposes restrictions on the involuntary transfer of a licensed employee.]~~

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section 15** of this bill requires full compensation for all missed days of work and provides that the employee is not required to mitigate damages.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" has the meaning ascribed to it in NRS 391.311.*

Sec. 4. *"Representative of a school district" means any person employed, appointed or retained by the board of trustees of a school district to investigate or otherwise act on behalf of the school district in any matter that may result in disciplinary action against a school employee, or any complaint made by a school employee concerning his working conditions or the manner in which he is treated at work.*

Sec. 5. *"School employee" means any licensed or unlicensed person employed by the board of trustees of a school district. The term does not include a person who is employed on a temporary basis or a person who is employed as an independent contractor.*

Sec. 6. 1. *The provisions of sections 2 to 11, inclusive, of this act do not apply to any school employee who is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the extent of any conflict between the provisions of the agreement and the provisions of sections 2 to 11, inclusive, of this act.*

2. *The provisions of sections 2 to 11, inclusive, of this act apply to an administrator if the matter may result in disciplinary action against the administrator or if the administrator makes a complaint concerning his working conditions or the manner in which he is treated at work.*

Sec. 6.5. *The provisions of sections 2 to 11, inclusive, of this act do not apply to action taken by an administrator or representative of a school district which is verbal or written and which is not investigatory in nature and is not intended to result in the admonition, suspension, demotion, transfer or dismissal of a school employee.*

Sec. 7. 1. *Except as otherwise provided in subsection 1 of section 6 of this act, section 6.5 of this act or other specific statute, any meeting between a school employee and an administrator or representative of a school district that may result in disciplinary action against the school employee is subject to the provisions of this section.*

2. *If a meeting is governed by this section, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.*

3. *The notice required by subsection 2 must include, without limitation:*

*(a) The date, time and place of the meeting;*

*(b) The purpose of the meeting; and*

*(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.*

4. *If a meeting governed by this section is convened to consider an allegation of improper conduct or performance by an employee, the notice required by subsection 2 must provide the employee with notice of the specific concern to be discussed.*

5. *If a meeting that is not otherwise subject to the provisions of this section is held between a school employee and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the school employee must, upon request, be granted an immediate continuance of the meeting for not less than 48 hours. If a continuance is requested, the administrator or representative shall comply with the requirements of this section before reconvening the meeting.*

Sec. 8. 1. *A school employee who wishes to request a meeting concerning his working conditions or the manner in which he is treated at work may, in writing, notify the administrator or representative of the school district of the complaint and request such a meeting.*

2. *If a meeting is requested pursuant to subsection 1, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.*

3. *The notice required pursuant to subsection 2 must include, without limitation:*

*(a) The date, time and place of the meeting;*

*(b) The purpose of the meeting; and*

*(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.*

Sec. 8.5. 1. *Except as otherwise provided in subsection 2, if sufficient grounds for dismissal of an unlicensed employee do not exist, the unlicensed employee must be reinstated with, and is entitled to, full compensation, plus interest at the rate established pursuant to NRS 99.040, for all missed days of work. The unlicensed employee is not required to mitigate his damages.*

2. *An unlicensed employee may be suspended with loss of pay at any time after a hearing has been held which affords due process. An employee may be suspended more than once in a year, but the total number of days of suspension must not exceed 20 in 1 year. Unless circumstances otherwise require, the suspensions must be progressively longer.*

3. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. *The board of trustees of each school district shall adopt and enforce a written policy prohibiting administrators or agents of the school district from committing an act or making a statement which is intended to convince school employees to waive their rights pursuant to sections 2 to 11, inclusive, of this act.*

2. *The policy must include penalties for violation of the policy.*

3. *The school district shall ensure that a copy of the policy is provided to each employee who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.*

Sec. 12. ~~1. An involuntary transfer of a licensed employee must be based upon licensure and seniority and may not be made as a form of discipline.~~

~~2. If a licensed employee believes an involuntary transfer was made as a form of discipline, he is entitled to a hearing on that issue pursuant to the provisions of this section and NRS 391.311 to 391.3197, inclusive.]~~  
(Deleted by amendment.)

Sec. 13. ~~[NRS 391.311 is hereby amended to read as follows:~~

~~391.311 As used in NRS 391.311 to 391.3197, inclusive, and section 12 of this act, unless the context otherwise requires:~~

~~1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.~~

~~2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, and section 12 of this act is employed.~~

~~3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.~~

~~4. "Immorality" means:~~

~~(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or~~

~~(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.~~

~~5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.~~

~~6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.~~

~~7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.~~

~~8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 391.3115 is hereby amended to read as follows:~~

~~391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, and section 12 of this act do not apply to:~~

~~(a) Substitute teachers; or~~

~~(b) Adult education teachers.~~

~~2. The provisions of NRS 391.311 to 391.3194, inclusive, and section 12 of this act do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.~~

~~3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, and section 12 of this act for demotion, suspension or dismissal apply to them.] (Deleted by amendment.)~~

Sec. 15. NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is

entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with , ***and is entitled to***, full compensation, plus interest ~~[ ]~~ ***at the rate established pursuant to NRS 99.040, for all missed days of work.***

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive ~~no~~ ***not*** more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

Sec. 16. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 319.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 181.

The following Senate amendment was read:

Amendment No. 740.

AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the Nevada Charter School Institute; prescribing the membership, duties and powers of the Institute; revising provisions governing the membership of a committee to form a charter school and the governing body of a charter school; revising provisions for the process of review of an application to form a charter school; authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; revising various other provisions governing charter schools; repealing the Subcommittee on Charter Schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) Sections 22-32 of this bill create the Nevada Charter School Institute and prescribe the membership of the Charter School Institute. Section 35 of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the Nevada Charter School Institute to sponsor charter schools. Sections 41 and 50 of this bill authorize the Nevada Charter School Institute to adopt regulations relating to charter schools and eliminate the authority of the Department of Education and the State Board of Education to adopt certain regulations relating to charter schools. Section 2 of this bill transfers the duty to prepare an annual report of accountability information of all the charter schools in this State from the board of trustees of a school district to the Nevada Charter School Institute. Sections 64 and 65 of this bill require the Director of the Nevada Charter School Institute and other persons employed by the Charter School Institute to be appointed or hired, as appropriate. Section 66 of this bill requires the members of the Nevada Charter School Institute to be appointed. Section 69 of this bill transfers the sponsorship of all State Board-sponsored charter schools to the Nevada Charter School Institute.

Existing law prescribes the membership of a committee to form a charter school and prescribes the process for the initial review of an application to



form a charter school by the Department of Education. (NRS 386.520) **Section ~~33~~ 36** of this bill revises the membership of the committee and the process for review of the application by the Department.

Upon approval of an application by the Department, existing law provides that a committee to form a charter school may submit an application to the proposed sponsor. (NRS 386.525) **Section ~~34~~ 37** of this bill revises provisions governing the review of such an application if the ~~[State Board of Education]~~ **Nevada Charter School Institute** is the proposed sponsor.

Existing law authorizes the governing body of a charter school to submit a request for an amendment to the written charter. (NRS 386.527) **Section ~~37~~ 38** of this bill provides that if the sponsor of the charter school denies the request for an amendment, the sponsor must provide written notice of the reasons for the denial.

Existing law requires the Department to provide certain information regarding the charter schools operating in this State. (NRS 386.545) **Section ~~41~~ 42** of this bill provides that if the Department requests certain information from a charter school that is not required by specific statute ~~(NRS 386.545)~~ **or regulation**, the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost the charter school money.

Existing law prescribes the membership, qualifications and powers of the governing body of a charter school and requires the governing body to hold at least quarterly meetings. (NRS 386.549) **Section ~~43~~ 44** of this bill revises provisions governing the membership of the governing body and authorizes the governing body, upon a majority vote of the members, to set a salary for the attendance of its members at meetings of the governing body, not to exceed \$80 per meeting per month.

Existing law prescribes the requirements for a charter school 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 appropriations or otherwise for facilities. A charter school is eligible if 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. (NRS 386.5515) **Section ~~45~~ 45** of this bill revises this eligibility provision to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year who have satisfied the coursework requirements for graduation have passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count for the purposes of apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) **Section ~~46~~ 47** of this bill requires the ~~[State Board]~~ **Nevada Charter School Institute** to prescribe a process which ensures that all

charter schools, regardless of sponsor, have information of all sources of funding for the public schools provided through the Department. **Section ~~49~~ 47** also changes the percentage of administrative costs that the ~~[State Board or a college or university]~~ **sponsor of a charter school** may receive for sponsorship. ~~[after the first year of operation of a charter school from 1.5 percent to 1 percent.]~~

Existing law prescribes the process for a parent or legal guardian of a child to file a notice of intent to homeschool the child with the superintendent of schools of the school district. (NRS 392.700) **Section ~~40~~ 60** of this bill provides that if such a child seeks admittance or entrance to a public school after being homeschooled, the parent or legal guardian shall notify the superintendent to withdraw the notice of intent to homeschool. **Section ~~40~~ 60** further provides that if such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides.

Existing law creates the Subcommittee on Charter Schools. (NRS 386.507) **Section ~~44~~ 61** of this bill repeals the Subcommittee.

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

**Section 1. NRS 385.005 is hereby amended to read as follows:**

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this state such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

2. The responsibility of establishing a statewide policy of integration or desegregation of public schools is reserved to the Legislature. The responsibility for establishing a local policy of integration or desegregation of public schools consistent with the statewide policy established by the Legislature is delegated to the respective boards of trustees of local school districts and to the governing body of each charter school.

3. The State Board shall, and the Nevada Charter School Institute, each board of trustees of a local school district, the governing body of each charter school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

**Sec. 2. 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 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 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. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, 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 groups 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 group 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 groups 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.

(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 group of pupils must not be made pursuant to this paragraph if the number of pupils in that group 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 group for that group 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~~ 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~~ 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~~ 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~~ 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. ~~It, 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 ~~it~~

~~(1) Any~~ any special programs for pupils at an individual school. ~~It 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. ~~It, 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 grade 8 and a separate reporting of 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. The reporting for pupils in grades 9 to 12, inclusive, excludes 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 ~~for 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, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(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 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) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district.]~~ information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.



3. *The Nevada Charter School Institute shall, on or before August 15 of each year, prepare an annual report of accountability of charter schools in this State concerning the accountability information prescribed by the Department pursuant to this section. The Department shall prescribe by regulation the information that must be prepared by the Nevada Charter School Institute, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable for charter schools.*

4. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 *or maintained by a charter school for purposes of the reporting required pursuant to subsection 3* 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.

~~4.4~~ 5. The annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable*, 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.

~~5.4~~ 6. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to ~~subsection~~ *subsections 2 and 3* and provide the forms to the respective school districts ~~and the Nevada Charter School Institute.~~

(b) Provide statistical information and technical assistance to the school districts *and the Nevada Charter School Institute* to ensure that the reports provide comparable information with respect to each school in each district, *each charter school* and among the districts *and charter schools* 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.

~~6.4~~ 7. 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.}~~ **8.** On or before August 15 of each year ~~{, the}~~ :

(a) *The board of trustees of each school district **and the Nevada Charter School Institute** 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.*

(b) *The Nevada Charter School Institute shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of attendance and truancy of pupils enrolled in each charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.*

~~{8.}~~ **9.** On or before August 15 of each year, the board of trustees of each school district *and the Nevada Charter School Institute* shall:

(a) Provide written notice that the report required pursuant to subsection 2 *or 3, as applicable,* is available on the Internet website maintained by the school district ~~{,}~~ *or the Nevada Charter School Institute,* 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 *or 3, as applicable,* 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 ~~{,}~~ *or the Nevada Charter School Institute,* 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.}~~ *If the Nevada Charter School Institute does not maintain a website, the Nevada Charter School Institute shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school in this State and the parents and guardians of pupils enrolled in each charter school in this State.*

~~{9.}~~ **10.** Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~{8.}~~ **9** 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 ~~{,}~~ *or 3, as applicable.*

~~[10.]~~ **11.** 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. 3. NRS 385.349 is hereby amended to read as follows:**

385.349 1. The board of trustees of each school district ~~and the Nevada Charter School Institute~~ 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~~ **If prepared by a school district, 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) **If prepared by the Nevada Charter School Institute, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools in this State as a whole and for each charter school in this State;**

(c) Information on the involvement of parents and legal guardians in the education of their children; and

~~(c)~~ (d) 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 ~~and~~ **and the Nevada Charter School Institute,** prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district ~~or the Nevada Charter School Institute~~ 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 ~~and the Nevada Charter School Institute~~ 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 ~~and~~ **or charter schools, as applicable.**

(b) Provide for the public dissemination of the summary **of the school district or the Nevada Charter School Institute, as applicable,** by posting a copy of the summary on the Internet website maintained by the school

district ~~[ ]~~ or the Nevada Charter School Institute, if any. If a school district or the Nevada Charter School Institute does not maintain a website, the district or the Nevada Charter School Institute shall otherwise provide for public dissemination of the summary. The board of trustees of each school district and the Nevada Charter School Institute shall ensure that the parents and guardians of pupils enrolled in the school district or each charter school, as applicable, 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 ~~[ ]~~ or the Nevada Charter School Institute, if any. Upon the request of a parent or legal guardian, the school district or the Nevada Charter School Institute, as applicable, shall provide the parent or legal guardian with a written copy of the summary.

~~[ 5. The board of trustees of each school district shall 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. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, 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. 4. NRS 385.357 is hereby amended to read as follows:**

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 or 3 of NRS 385.347, as applicable, is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to

ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.3741. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee;
- (f) Bureau; and
- (g) Board of trustees of the school district in which the school is located ~~or, if the school is a charter school, the sponsor of the charter school.~~

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

**Sec. 5. NRS 385.358 is hereby amended to read as follows:**

385.358 1. The principal of each public school, including, without limitation, each charter school, shall prepare a summary of accountability information 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 only for the school;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must 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 ~~and~~ and the Nevada Charter School Institute, prescribe a form that contains the basic information required by subsection 1. The principal of a school 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:

(a) The principal of each public school shall submit the summary in electronic format to the:

(1) Department;

(2) Bureau; and

(3) Board of trustees of the school district in which the school is located ~~or, if the school is a charter school, to the sponsor of the charter school.~~

(b) The school district in which the school is located shall ensure that the summary is posted on the Internet website maintained by the school, if any, or the Internet website maintained by the school district, if any. The sponsor of a charter school shall ensure that each summary of the charter school is posted on the Internet website maintained by the charter school, if any, or the Internet website maintained by the sponsor, if any. If the summary is not posted on the website of the school, ~~for~~ the school district ~~or the sponsor of the charter school, as applicable,~~ the school district or the sponsor of the charter school, as applicable, shall otherwise provide for public dissemination of the summary.

(c) The principal of each public school shall ensure that the parents and legal guardians of the pupils enrolled in the school have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website, if any, and how a parent or guardian may otherwise access the summary.

(d) The principal of each public school shall provide a written copy of the summary to each parent and legal guardian of a pupil enrolled in the school.

**Sec. 6. NRS 385.359 is hereby amended to read as follows:**

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218.5354, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; ~~and~~



(II) The board of trustees of each school district pursuant to subsection 2 of NRS 385.347; ~~and~~

(III) The Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by:

(I) The State Board pursuant to NRS 385.34691;

(II) The board of trustees of each school district pursuant to NRS 385.348; and

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district and the Nevada Charter School Institute regarding any methods by which the district or the Nevada Charter School Institute may improve the accuracy of the report required pursuant to subsection 2 or 3 of NRS 385.347, as applicable, and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 or 3 of NRS 385.347, as applicable, and the plan to improve the achievement of pupils required pursuant to NRS 385.357.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

**Sec. 7. 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]~~ Nevada Charter School Institute or by 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]~~ Nevada Charter School Institute or the institution within the Nevada System of Higher Education 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]~~ Nevada Charter School Institute the determination made for each charter school that is sponsored by the ~~[State Board]~~ Institute.

(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 group 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 group 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 group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group 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 group enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular group 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 group.

(b) The pupils in such a group 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 group for that group 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. 8. 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).~~ **paragraphs (b) and (c).** 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 Nevada Charter School Institute, the Institute shall ensure, in conjunction with the governing body of the charter school, 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 by~~ 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. 9. 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}~~ Nevada Charter School Institute or by 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}~~ Nevada Charter School Institute 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}~~ Nevada Charter School Institute or by 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.

**(d) The determination and final designation made for each charter school sponsored by the Nevada Charter School Institute to the Institute.**

**Sec. 10. NRS 385.3661 is hereby amended to read as follows:**

385.3661 1. Except as otherwise provided in subsection 2, 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; and

(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.

2. 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 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 Nevada Charter School Institute, the Institute 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) For a charter school sponsored by ~~the State Board or by~~ 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.**

3. In addition to the requirements of subsection 1 or 2, 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).~~ **paragraphs (b) and (c).** 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 Nevada Charter School Institute, the Institute 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.**

**(c)** For a charter school sponsored by ~~the State Board or by~~ 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. 11. NRS 385.3693 is hereby amended to read as follows:**

385.3693 1. Except as otherwise provided in subsection 2, 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; and

(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.

2. 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 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 Nevada Charter School Institute, the Institute 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)** For a charter school sponsored by ~~the State Board or by~~ 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. 12. 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 Nevada Charter School Institute, the Institute 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)~~ Sponsored by ~~the State Board or by~~ 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)~~ (4) 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. 13. 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 Nevada Charter School Institute, the Institute 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)~~ (d) For a charter school sponsored by ~~the State Board or by~~ 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.

~~(e)~~ (e) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

**Sec. 14. 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 or 3 of NRS 385.347, as applicable, 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) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) 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}~~ Nevada Charter School Institute, the support team shall make the recommendations to the ~~{State Board}~~ Institute 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.

(h) 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 name and duties of each person who is responsible for carrying out the revisions.

(i) 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]~~ Nevada Charter School Institute, the ~~[Department]~~ Institute 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~~ the institution that sponsors the charter school shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly 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.

(k) 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 quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

**Sec. 15. NRS 385.3742 is hereby amended to read as follows:**

385.3742 1. In addition to the duties prescribed in NRS 385.3741, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils submitted by the support team pursuant to NRS 385.3741;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; ~~and~~

(7) ~~[(A)]~~ Except as otherwise provided in subparagraph (8), a description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347. ~~[(A)]~~; and

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team of a school other than a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

↪ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

**3. On or before November 1, the support team of a charter school shall submit a copy of the final written report to the:**

**(a) Principal of the school;**

**(b) Sponsor of the charter school;**

**(c) Department; and**

**(d) Bureau.**

↪ **The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.**

**Sec. 16. 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 Nevada Charter School Institute, the Institute 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)** Sponsored by ~~the State Board or by~~ 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)]~~ **(4)** 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. 17. NRS 385.3744 is hereby amended to read as follows:**

385.3744 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to subsection 2. The recommendation must be submitted to:

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) **For a charter school sponsored by the Nevada Charter School Institute, the Institute.**

~~(c)~~ For a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department.

2. Regardless of whether a support team recommends corrective action for a school, the Nevada Charter School Institute may, for a charter school sponsored by the Institute, the Department may, for a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) Significantly decrease the managerial authority of the employees at the school.

(c) Extend the school year or the school day.

3. The Nevada Charter School Institute, the Department or the board of trustees of a school district, as applicable, 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 in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Nevada Charter School Institute, the Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

**Sec. 18. 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 Nevada Charter School Institute, the Institute 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) For a charter school sponsored by ~~the State Board or by~~ 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)]~~ (e) The Department shall continue a support team for the charter school.

**Sec. 19. 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 Nevada Charter School Institute, the Institute 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) Sponsored by ~~the State Board or by~~ 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)]~~ (4) 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, the Nevada Charter School Institute or the Department proceeds with a plan for restructuring, the board of trustees, the Institute 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, the Institute 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. 20. NRS 385.376 is hereby amended to read as follows:**



385.376 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, the Nevada Charter School Institute may, for a charter school sponsored by the Institute, the Department may, for a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

3. The Nevada Charter School Institute, the Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Nevada Charter School Institute, the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees, the Nevada Charter School Institute or the Department proceeds with consequences or sanctions, the board of trustees, the Nevada Charter School Institute 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, the Nevada Charter School Institute or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

**Sec. 21. NRS 385.620 is hereby amended to read as follows:**

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 ~~[-]~~ **and similar information in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347;**

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

**Sec. 22. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 32, inclusive, of this act.**

**Sec. 23. As used in NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 24 and 25 of this act have the meanings ascribed to them in those sections.**

**Sec. 24. "Charter School Institute" means the Nevada Charter School Institute created by section 26 of this act.**

**Sec. 25. "Director" means the Director of the Charter School Institute.**

Sec. 26. 1. The Nevada Charter School Institute, consisting of seven members, is hereby created. The membership of the Charter School Institute consists of:

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by an association of charter schools pursuant to subsection 3.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the Charter School Institute:

(a) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

(b) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. The Charter School Institute shall establish a list of associations of charter schools that operate within this State and designate the order in which such associations may appoint a member to the Charter School Institute. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the Charter School Institute unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the Charter School Institute must be a resident of this State.

5. After the initial terms, the term of each member of the Charter School Institute is 3 years, commencing on July 1 of the year he is appointed. A vacancy in the membership of the Charter School Institute must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the Charter School Institute until his successor is appointed.

6. The members of the Charter School Institute shall select a Chairman and Vice Chairman from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the Charter School Institute is entitled to receive:

(a) For each day or portion of a day during which he attends a meeting of the Institute, a salary of not more than \$80, as fixed by the Institute; and

(b) For each day or portion of a day during which he attends a meeting of the Institute or is otherwise engaged in the business of the Institute, the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 27. 1. The members of the Charter School Institute shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the members.

2. Four members of the Charter School Institute constitute a quorum, and a quorum may exercise all the power and authority conferred on the Charter School Institute.

Sec. 28. 1. The Charter School Institute shall appoint a Director of the Institute for a term of 3 years. The Charter School Institute may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.

2. A vacancy must be filled by the Charter School Institute for the remainder of the unexpired term.

3. The Director is in the unclassified service of the State.

Sec. 29. The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the Charter School Institute.

Sec. 30. The Director shall:

1. Execute, direct and supervise all administrative, technical and procedural activities of the Charter School Institute in accordance with the policies prescribed by the Charter School Institute;

2. Organize the Charter School Institute in a manner which will ensure efficient operation and service of the Charter School Institute;

3. Serve as the Executive Secretary of the Charter School Institute; and

4. Perform such other duties as are prescribed by law or the Charter School Institute.

Sec. 31. The Charter School Institute may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act.

Sec. 32. 1. The Account for the Nevada Charter School Institute is hereby created in the State General Fund, to be administered by the Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the Charter School Institute.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

**5. The Director may accept gifts, grants and bequests. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with this section.**

**Sec. 33. NRS 386.500 is hereby amended to read as follows:**

386.500 ~~For the purposes of NRS 386.500 to 386.610, inclusive, a~~ 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. 34. NRS 386.508 is hereby amended to read as follows:**

386.508 There is hereby created a school district to be designated as the Charter School District for ~~[State Board Sponsored]~~ **Charter School Institute-Sponsored** Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the ~~[State Board]~~ **Charter School Institute** or sponsored by a college or university within the Nevada System of Higher Education. The ~~[State Board]~~ **Charter School Institute** 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 School District for purposes of federal law governing charter schools.

**Sec. 35. 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]~~ **Charter School Institute** shall sponsor charter schools whose applications have been approved by the ~~[State Board]~~ **Charter School Institute** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the ~~[State Board]~~ **Charter School Institute** sponsors a charter school, the ~~[State Board or the Department]~~ **Charter School Institute** 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.

~~[Section 4.]~~ **Sec. 36. 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.] :

(a) *Two members who are educational personnel licensed pursuant to chapter 391 of NRS;*

(b) *One parent or legal guardian who is not a teacher or employee of the proposed charter school; and*

(c) *Two members who possess knowledge and expertise in one or more of the following areas:*

(1) *Accounting;*

(2) *Financial services;*

(3) *Law; or*

(4) *Human resources.*

2. In addition to the ~~{teachers}~~ *members* who serve ~~{}~~ *pursuant to subsection 1*, the committee may ~~{consist of:}~~ *include, without limitation, not more than four additional members as follows:*

(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.}~~ 3. 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,} {the State Board}~~ *Charter School Institute* 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}~~ *Charter School Institute* 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 ~~{,}~~ *, and section 23 to 32, inclusive, of this act.*

(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-}~~ **4.** The Department shall review an application to form a charter school to determine whether it is *substantially* complete ~~{-}~~ *and compliant*. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~{deny the application.}~~ *provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.*

**5.** The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department ~~{denies}~~ *determines that* an application ~~{-}~~ *is not substantially complete and compliant*, the

Department shall include in the written notice the ~~{reason for the denial}~~ ***basis for that determination*** and the deficiencies in the application. ***The staff designated by the Department shall provide an opportunity to the applicant to meet with the ~~{applicant}~~ staff designated by the Department to confer on the method to correct the identified deficiencies.*** 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. 2.}~~ ***Sec. 37.*** NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon ~~{approval of an application}~~ ***determination*** by the Department ~~{ }~~ ***that an application is substantially complete and compliant,*** 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.}~~ ***the ~~{State Board.}~~ Charter School Institute.*** 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 or the ~~{Subcommittee on Charter Schools.}~~ ***~~{State Board.}~~ Charter School Institute,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and ***sections 23 to 32, inclusive, of this act and*** the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~{Department.}~~ ***Charter School Institute.***

2. The Department shall assist the board of trustees of a school district, ***the Charter School Institute,*** 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 ~~to the State Board~~ for sponsorship by the ~~State Board~~ ~~to the Subcommittee on Charter Schools created pursuant to NRS 386.507~~ Charter School Institute 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~~ ~~State Board~~ Charter School Institute receives an application pursuant to subsection 1 or 4, it shall ~~hold~~ *consider the application at* a meeting, ~~to consider the application. The meeting~~ *which* 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~~ ~~State Board~~ Charter School Institute shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~Subcommittee~~ ~~State Board~~ *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]~~ Charter School Institute 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~~ Charter School Institute shall provide written notice of its determination to the applicant.

~~[7.]~~ 6. If the ~~State Board~~ Charter School Institute *denies or fails to act upon* an application, ~~it~~ *the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the* ~~Department or the State Board~~ Charter School Institute. The ~~State Board~~ Charter School Institute shall include in the written notice the reasons for the denial *or the failure to act* and the deficiencies in the application. *The staff designated by the* ~~Department~~ Charter School Institute shall provide an opportunity to the applicant to meet with the ~~applicant~~ *staff designated by the Charter School Institute to confer on the method to correct the identified deficiencies.* 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.]~~ 7. If the ~~[State Board]~~ Charter School Institute denies an application after it has been resubmitted pursuant to subsection ~~[7.]~~ 6, the applicant may, not more than 30 days after the receipt of the written notice from the ~~[State Board]~~ Charter School Institute, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[9.]~~ 8. 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, the ~~[State Board]~~ Charter School Institute, 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. 3.]~~ **Sec. 38.** NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~[State Board]~~ Charter School Institute, 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]~~ Charter School Institute, 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]~~ Charter School Institute approves the application:

(a) The ~~[State Board]~~ Charter School Institute shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board, the Charter School Institute 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. 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, the Charter School Institute 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]~~ Charter School Institute shall adopt ~~the~~

~~(a) An application]~~ a process for a charter school that requests a change in the sponsorship of the charter school, which must not require the ~~[applicant]~~ charter school to undergo the requirements of an initial application to form a charter school. ~~[- and~~

~~(b) Objective criteria for the conditions under which such a request may be granted.]~~ If the request is for sponsorship by the Charter School Institute, the governing body must not be required to submit an application and the Charter School Institute shall accept the transfer of the charter school to the Institute.

5. Except as otherwise provided in subsection 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]~~ 3 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]~~ Charter School Institute or a college or university within the Nevada System of Higher Education 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.

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 approved for enrollment 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 sections 23 to 32, inclusive, of this act, 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 approved for enrollment 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.]~~ *If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.*

7. The ~~[State Board]~~ **Charter School Institute** 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.

8. The holder of a written charter that is issued pursuant to subsection 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]~~ **Charter School Institute** pursuant to subsection 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. 39. NRS 386.530 is hereby amended to read as follows:**

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 90 days before the expiration of the charter. The application must include the information prescribed by the regulations of the ~~[Department]~~ **Charter School Institute**. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department]~~ **Charter School Institute**. The sponsor shall renew the charter unless it finds the existence of

any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➡ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~[Department]~~ **Charter School Institute**. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department]~~ **Charter School Institute**. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➡ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

**Sec. 40. NRS 386.535 is hereby amended to read as follows:**

386.535 1. The sponsor of a charter school may revoke the written charter of the charter school before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees have failed to comply with:

(1) The **material** terms and conditions of the written charter;

(2) Generally accepted standards of accounting and fiscal management;

or

(3) The provisions of NRS 386.500 to 386.610, inclusive, **and sections 23 to 32, inclusive, of this act**, or any other statute or regulation applicable to charter schools;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or

to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the charter.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to revoke the written charter. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

~~[Sec. 4.]~~ **Sec. 41.** NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~[The Department]~~ **Subject to the provisions of subsections 3 and 4, the Charter School Institute** 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, the ~~[Subcommittee on Charter Schools]~~ ~~[State Board]~~ **Charter School Institute** and a college or university within the Nevada System of Higher Education, 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,]~~ the ~~[State Board]~~

Charter School Institute and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, ~~or~~ an application to renew a written charter ~~or a request for amendment of a written charter~~; and

(e) The process for submission of an amendment of a written charter pursuant to NRS 386.527 and the contents of the application.

2. Subject to the provisions of subsections 3 and 4, the Charter School Institute may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act, including, without limitation, regulations that prescribe the:

(a) Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(b) Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

3. The Department may adopt regulations relating to the finances and budgets of charter schools as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting; and

(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 NRS 386.5515; 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 NRS 386.5515.~~

4. The State Board may disapprove any regulation adopted by the Charter School Institute if the regulation:

(a) Threatens the efficient operation of the public schools in this State;

or

(b) Creates an undue financial hardship for any charter school in this State.

↪ A regulation shall be deemed approved if the State Board does not disapprove the regulation within 45 days after it is adopted by the Charter School Institute.

~~[Sec. 5.]~~ **Sec. 42.** 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 ~~and~~, **and sections 23 to 32, inclusive, of this act;**

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(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) Provide the charter school with an updated list of available substitute teachers within the school district.

(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.

(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.

***5. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute ~~or~~ or regulation. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost money for the charter school.***

**Sec. 43. NRS 386.547 is hereby amended to read as follows:**

386.547 The ~~State Board of~~ **Charter School Institute** shall:

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.

2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

~~Sec. 6.~~ **Sec. 44. NRS 386.549 is hereby amended to read as follows:**



386.549 1. The governing body of a charter school:

(a) Must consist of:

(1) At least ~~three~~ **two** teachers, as defined in subsection 5; or

(2) ~~Two teachers,~~ **One teacher** 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) Must consist of at least one parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or administrator at the charter school.***

***(c) Must consist of at least two members who possess knowledge and expertise in one or more of the following areas:***

***(I) Accounting;***

***(II) Financial services;***

***(III) Law; or***

***(IV) Human resources.***

~~[(b)] ~~[(c)]~~ (d)~~ May ~~[consist of,]~~ **include**, 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.

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.

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. ***Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.***

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. 7.]~~ **Sec. 45.** NRS 386.5515 is hereby amended to read as follows:

386.5515 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]~~ **pursuant to NRS 386.540** 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]~~ **Charter School Institute**, 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 grade 12*** in the charter school ~~[who are required to take]~~ ***in the immediately preceding school year who have completed the required coursework for graduation have passed*** 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]~~ **Charter School Institute** one time every 3 years. The sponsor of the charter school and the ~~[Department]~~ **Charter School Institute** 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. 8.]~~ **Sec. 46.** 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 in which a pupil enrolled in the charter school resides*** 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, the provision of

health services for the pupils who are enrolled in the charter school 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~~ **pupil resides** 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~~ **pupil resides** 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 the Nevada Interscholastic Activities Association. 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. 9.]~~ **Sec. 47.** 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. ~~The [State Board]~~ ***Charter School Institute shall prescribe a process which ensures that all charter schools, regardless of sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.***

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 the board of trustees sponsors the charter school, 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]~~ ***sponsor of*** 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]~~ ***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 ~~1~~.

~~(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] ~~1.5~~ 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

~~[5.]~~ 4. 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.]~~ 5. 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.]~~ 6. 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]~~ **Charter School Institute** 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.

~~§ 7.~~ 7. 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. 48. NRS 386.576 is hereby amended to read as follows:**

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~[Department]~~ **Charter School Institute**.

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~[Department]~~ **Charter School Institute** may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

**Sec. 49. NRS 386.577 is hereby amended to read as follows:**

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~[Department]~~ **Charter School Institute** may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed \$25,000.

**Sec. 50. NRS 386.578 is hereby amended to read as follows:**

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the ~~[Department]~~ **Charter School Institute** for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~[Department]~~ **Charter School Institute** shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved. If the ~~[Department]~~ **Charter School Institute** makes a loan from the Fund, the ~~[Department]~~ **Charter School**

Institute shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~[[The State Board]]~~ Subject to the provisions of subsections 3 and 4 of NRS 386.540, the Charter School Institute:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~[[Department]]~~ Charter School Institute by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

**Sec. 51. NRS 386.605 is hereby amended to read as follows:**

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection ~~[[2]]~~ 3 of NRS 385.347 to ~~[[the board of trustees of the school district in which the charter school is located]]~~ :

(a) If the charter school is sponsored by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the sponsor of the charter school, which shall forward the information to the Charter School Institute in a timely manner; or

(b) If the charter school is sponsored by the Charter School Institute, the Charter School Institute,

↪ for inclusion in the report of the ~~[[school district]]~~ Institute pursuant to that section. The information must be submitted by the sponsor of the charter school or the charter school, as applicable, in a format prescribed by the ~~[[board of trustees]]~~ Charter School Institute.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by sponsors of charter schools pursuant to this section and charter schools pursuant to this section and NRS 385.357, consult with the Charter School Institute and the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

**Sec. 52. 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]]~~ Charter School Institute. 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~~ Charter School Institute, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

**Sec. 53. NRS 386.650 is hereby amended to read as follows:**

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, the Nevada Charter School Institute, the school districts and the public schools in this



State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➡ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated

system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

**Sec. 54. NRS 386.745 is hereby amended to read as follows:**

386.745 1. Except as otherwise provided in subsection 10, the empowerment team of a public school, other than a charter school that is sponsored by the ~~[State Board]~~ **Nevada Charter School Institute** or by a college or university within the Nevada System of Higher Education, that develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed empowerment plan to the designee of the board of trustees appointed pursuant to this subsection for review and approval pursuant to this section. The board of trustees shall designate a person to review each proposed empowerment plan and recommend the approval or denial of the plan to the board of trustees.

2. The board of trustees shall approve or deny the empowerment plan. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the school pursuant to subsection 4 of NRS 386.740.

3. Except as otherwise provided in subsection 10, if the board of trustees approves an empowerment plan, the president of the board of trustees, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the board of trustees of the school district revokes the plan.

4. Except as otherwise provided in subsection 10, if the board of trustees denies an empowerment plan, the board of trustees shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 10, an empowerment plan for a public school is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman. If an empowerment plan includes a request for a waiver from a statute contained in this title or a regulation of the State Board, *the Nevada Charter School Institute* or the Department, a public school may operate under the approved plan but the requested waivers from state law are not effective unless approved by the State Board pursuant to subsection 7.

6. Except as otherwise provided in subsection 10, the empowerment team may submit a written request to the board of trustees for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If the empowerment plan includes a request for a waiver from a statute or regulation, the board of trustees shall forward the approved empowerment plan to the State Board for review of the request for a waiver. The State Board shall review the empowerment plan and may approve or deny the request for a waiver from a statute or regulation unless the statute or regulation is required by federal law or is required to carry out federal law. *If the statute or regulation for which the request is submitted is within the jurisdiction of the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the request and in making a determination on the request.*

8. If the State Board approves the request for a waiver for a school, the Department shall provide written notice of the approval to the board of trustees of the school district that submitted the empowerment plan on behalf of the school.

9. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the school district with a written statement indicating the reason for the denial; and

(b) Except as otherwise provided in subsection 10, provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. A request for a waiver may be resubmitted by the school district, after the empowerment team corrects any deficiencies, not more than once in a school year.

10. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the

school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

**Sec. 55. NRS 386.750 is hereby amended to read as follows:**

386.750 1. Except as otherwise provided in subsection 7, the empowerment team of a charter school that is sponsored by the ~~[State Board]~~ Nevada Charter School Institute or by a college or university within the Nevada System of Higher Education which develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed plan to the Department for transmission to the State Board for review and approval pursuant to this section.

2. The State Board shall review each proposed empowerment plan and approve or deny the plan, including a request for a waiver from a statute contained in this title or a regulation of the State Board, the Nevada Charter School Institute or the Department, if applicable. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the charter school pursuant to subsection 4 of NRS 386.740. If the charter school is sponsored by the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the plan and in making a determination on the plan.

3. Except as otherwise provided in subsection 7, if the State Board approves an empowerment plan, the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the State Board revokes the plan.

4. Except as otherwise provided in subsection 7, if the State Board denies an empowerment plan, the State Board shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 7, an empowerment plan for a charter school that is sponsored by the ~~[State Board]~~ Nevada Charter School Institute or by a college or university within the Nevada System of Higher Education is not effective and a charter school shall not operate as an empowerment school unless the plan is signed by the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman.

6. Except as otherwise provided in subsection 7, the empowerment team may submit a written request to the Department for an amendment to the

empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

**Sec. 56. NRS 386.760 is hereby amended to read as follows:**

386.760 1. Each empowerment school, other than a charter school that is sponsored by the ~~[State Board]~~ **Nevada Charter School Institute** or by a college or university within the Nevada System of Higher Education, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

- (a) The financial status of the school; and
- (b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the ~~[State Board]~~ **Nevada Charter School Institute** or by a college or university within the Nevada System of Higher Education which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

- (a) The financial status of the school; and
- (b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the ~~[State Board]~~ **Nevada Charter School Institute** or by a college or university within the Nevada System of Higher Education. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the ~~[State Board]~~ **Nevada Charter School Institute** or by a college or university within the Nevada System of Higher Education which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

5. On or before July 1 of each year, the board of trustees of each school district shall compile the reports and audits required pursuant to subsections 1 and 3, if any, and forward the compilation to the:

- (a) Governor;
- (b) Department; and
- (c) Legislative Committee on Education.

6. On or before July 1 of each year, the Department shall compile the reports and audits required pursuant to subsections 2 and 4, if any, and forward the compilation to the:

- (a) Governor; and

(b) Legislative Committee on Education.

**Sec. 57. 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, charter schools and university schools for profoundly gifted pupils 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, 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 and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

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~~ **Nevada Charter School Institute** or by 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. 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 apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located 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 university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university 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 university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. 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.

8. 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. 58. NRS 388.795 is hereby amended to read as follows:**

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

- (a) Plans that have been adopted by the Department and the school districts in this State;
- (b) Plans that have been adopted in other states;
- (c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~and~~ **and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347;**
- (d) The results of the assessment of needs conducted pursuant to subsection 6; and
- (e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

5. The Commission shall:



(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➡ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide

recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

**Sec. 59. NRS 392.128 is hereby amended to read as follows:**

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district or the Nevada Charter School Institute pursuant to subsection ~~7~~ 8 of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chairman of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chairman of an advisory board divides the advisory board into subcommittees, the chairman shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

~~[Sec. 40.]~~ **Sec. 60.** NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. ***The parent or legal guardian of the child shall notify the superintendent of schools of the school district that the parent or legal guardian requests that the notice of intent to homeschool filed pursuant to this section be withdrawn. If such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school.*** A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

- (a) Essential to further a compelling governmental interest; and
- (b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

~~{Sec. 41.}~~ *Sec. 61.* NRS 386.507 is hereby repealed.

*Sec. 62.* The Department of Education shall, on or before October 1, 2009, transfer to the Account for the Nevada Charter School Institute created by section 32 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

*Sec. 63.* Notwithstanding the amendatory provisions of this act to the contrary, the Department of Education shall carry out the duties and responsibilities of the Nevada Charter School Institute from July 1, 2009, to September 30, 2009.

*Sec. 64.* Notwithstanding the provisions of section 28 of this act to the contrary, on October 1, 2009, the Governor shall appoint a Director of the Nevada Charter School Institute to a term of 3 years. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the Nevada Charter School Institute shall appoint the Director in accordance with section 28 of this act.

*Sec. 65.* 1. To assist the Nevada Charter School Institute created by section 26 of this act in carrying out its duties and responsibilities, the Director of the Nevada Charter School Institute shall, on October 1, 2009:

- (a) Hire an administrative assistant and an accounting assistant; and
- (b) Hire an educational consultant.

2. On October 1, 2009, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the Nevada Charter School Institute.

Sec. 66. On or before October 1, 2009, the members of the Nevada Charter School Institute created by section 26 of this act must be appointed to terms commencing on October 1, 2009, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2011.

2. One member appointed by the Governor to a term that expires on June 30, 2013.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2011.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2011.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2013. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the Nevada Charter School Institute.

Sec. 67. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 68. Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before October 1, 2009, remain in effect and may be enforced by the Nevada Charter School Institute created by section 26 of this act until the Institute adopts regulations to repeal or replace those regulations.

Sec. 69. A charter school that is approved to operate as a State Board of Education-sponsored charter school shall be deemed to be sponsored by the Nevada Charter School Institute created pursuant to section 26 of this act commencing on July 1, 2009, and the written charter of the charter school remains in effect until the expiration of the written charter, unless the written charter is revoked by the Nevada

Charter School Institute pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the Nevada Charter School Institute for renewal of its written charter pursuant to NRS 386.530. Notwithstanding the provisions of this section to the contrary, the Department of Education shall carry out the duties and responsibilities of the Nevada Charter School Institute from July 1, 2009, to September 30, 2009.

Sec. 70. 1. The Department of Personnel shall, upon the request of an employee of the Department of Education or the State Board of Education whose employment is terminated as a result of this act, place the employee on an appropriate reemployment list maintained by the Department of Personnel and allow a preference for each of those employees on that list. The Department of Personnel shall maintain each such employee on the reemployment list for not less than 2 years, or until the employee is reemployed by the Executive Branch of State Government, whichever occurs earlier.

2. The provisions of this section apply regardless of whether the employee was in the classified, unclassified or nonclassified service of the State of Nevada.

~~{Sec. 42.}~~ Sec. 71. 1. This section and sections 2, 22 and 32 of this act become effective upon passage and approval.

2. Sections 1, 3 to 21, inclusive, 23 to 31, inclusive, and 33 to 70, inclusive, of this act becomes effective on July 1, 2009.

3. Sections 54, 55 and 56 of this act expire by limitation on June 30, 2011.

#### TEXT OF REPEALED SECTION

**386.507 Subcommittee on Charter Schools: Appointment of members; terms.** The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his service on the Subcommittee, his term on the Subcommittee expires when his membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblywoman Parnell moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 181.

Remarks by Assemblywoman Parnell.

Motion carried.

Bill ordered to transmitted to the Senate.

Assembly Bill No. 262.

The following Senate amendment was read:

Amendment No. 601.

AN ACT relating to marriage; authorizing certain persons to issue marriage licenses in certain counties; allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) **Sections 1-1.7** of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel. Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other ~~and~~ and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage. Section 5.47 of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

**Section 3** of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.

Sec. 1.1. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.*



Sec. 1.2. "Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.

Sec. 1.3. "Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel.

Sec. 1.4. 1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.

2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding chapel ~~pursuant to~~ and in accordance with the provisions of this chapter and regulations adopted by the county clerk.

~~{2.}~~ 3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.

4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.

5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.

~~{3. The}~~

6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:

(a) Shall establish a course of training for applicants for certification as marriage licensing agents.

(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.

(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.

~~{4.}~~ 7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.

~~{5.}~~ 8. In addition to any other remedy or penalty, the county clerk may:

*(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or*

*(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.*

*Sec. 1.5. 1. An applicant for certification as a marriage licensing agent must:*

*(a) Be at least 21 years of age.*

*(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.*

*(c) Not have been convicted of a felony.*

*(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission*

*of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.*

*(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.*

*(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the training course. The county clerk shall establish the fee for the training program, which must not exceed \$100.*

*(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.*

*2. A marriage licensing agent shall:*

*(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;*

*(b) Collect from an applicant for a marriage license all fees required by law to be collected;*

*(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and*

*(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.*

*Sec. 1.6. 1. An applicant for certification as a marriage licensing agent shall submit to the county clerk 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 county clerk shall include the statement required pursuant to subsection 1 in:*

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

(b) *A separate form prescribed by the county clerk.*

3. *A certificate may not be issued by the county clerk if the applicant:*

(a) *Fails to complete or 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 county clerk 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. 1.7. 1. *If the county clerk 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 has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 1.8. NRS 122.002 is hereby amended to read as follows:

122.002 ~~{As used in this chapter, “commissioner}~~ *“Commissioner township” means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.*

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~{A}~~ *Except as otherwise provided in this section, a male and a female person, at least 18 years of age, not nearer of kin than second*

cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. ***A male and a female person who are the husband and wife of each other may be rejoined in marriage ~~if~~ if the record of their marriage has been lost or destroyed or is otherwise unobtainable.***

3. A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

- (a) Either parent; or
- (b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.~~ Except as otherwise provided in this subsection ~~and section 1.4 of this act,~~ the license must be issued at the county seat of ~~that~~ a county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~Before~~ ***Except as otherwise provided in this section, before*** issuing a marriage license, the county clerk ***or marriage licensing agent*** shall require each applicant to provide proof of the applicant's name and age. The county clerk ***or marriage licensing agent*** may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~an~~ ***a*** :

(1) ***Any secondary ~~form of identification~~ document that contains the name and a photograph of the applicant ~~or~~***

(2) *Any document for which identification must be verified as a condition to receipt of the document.*

↪ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~the county clerk determines~~ provides ~~proof of~~ the applicant's name and age. ***If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ***or marriage licensing agent*** issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ***or marriage licensing agent*** shall, ***except as otherwise provided in this subsection***, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant who states that he does not have a social security number or who states that any ~~other answer~~ requested information concerning the applicant's parents is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk ~~or~~ ***or marriage licensing agent***, the county clerk ***or marriage licensing agent*** may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~or~~ ***or marriage licensing agent***, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~or~~ ***or marriage licensing agent***. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ***or marriage licensing agent*** in writing. If the county clerk, ***the marriage licensing agent*** or the district court waives the requirements of subsection 3, the county clerk ***or marriage licensing agent*** shall require the applicant who is able to appear before the county clerk ***or marriage licensing agent*** to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk *or marriage licensing agent* shall not require any evidence to verify a social security number.

➔ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. *The county clerk or marriage licensing agent shall not deny a license to an applicant who states that he does not have a social security number or who states that any ~~other answer~~ requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.*

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk *or marriage licensing agent* shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk *or marriage licensing agent* and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. *If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk or marriage licensing agent shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.*

7. If the authorization of a district court is required, the county clerk *or marriage licensing agent* shall issue the license if that authorization is given to him in writing.

~~{7.}~~ 8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~{8.}~~ 9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. ~~for from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.~~ Except as otherwise provided

in this subsection, ~~[and section 1.4 of this act,]~~ the license must be issued at the county seat of a county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk ~~for marriage licensing agent~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~for marriage licensing agent~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➡ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk ~~for marriage licensing agent~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The

county clerk ~~{for marriage licensing agent}~~ shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~{for marriage licensing agent}~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk ~~{for marriage licensing agent}~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~{for marriage licensing agent,}~~ the county clerk ~~{for marriage licensing agent}~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~{for marriage licensing agent,}~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. ~~{for marriage licensing agent,}~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~{for marriage licensing agent}~~ in writing. If the county clerk ~~{, the marriage licensing agent}~~ or the district court waives the requirements of subsection 3, the county clerk ~~{for marriage licensing agent}~~ shall require the applicant who is able to appear before the county clerk ~~{for marriage licensing agent}~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~{for marriage licensing agent}~~ shall not require any evidence to verify a social security number.

➤ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk ~~{for marriage licensing agent}~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~{for marriage licensing agent}~~ shall issue the license if the consent of the parent or guardian is:



- (a) Personally given before the clerk;
- (b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~for marriage licensing agent~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or
- (c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~for marriage licensing agent~~ shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk ~~for marriage licensing agent~~ shall issue the license if that authorization is given to him in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. NRS 122.045 is hereby amended to read as follows:

122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than \$25 for the preparation of an affidavit of correction.

2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk ~~[-]~~ **or marriage licensing agent.**

3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.

Sec. 5.2. NRS 122.050 is hereby amended to read as follows:

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE  
(EXPIRES 1 YEAR AFTER ISSUANCE)  
State of Nevada }  
}ss.  
County of }

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection ~~[3]~~ **4** of NRS 122.080, or a municipal judge if authorized pursuant to subsection ~~[4]~~ **5** of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage *in . . . . (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant) ....* of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And *(Name of applicant) ....* of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.

Witness my hand and the seal of the county *or signature of the marriage licensing agent*, this ... day of the month of ..... of the year .....

(Seal)Clerk *or (Signature) Marriage Licensing Agent* \_\_\_\_\_

Deputy clerk \_\_\_\_\_

**Name of Commercial Wedding Chapel, if applicable**

Sec. 5.3. NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk *or marriage licensing agent* may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk *or marriage licensing agent* shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

**Sec. 5.35. NRS 122.061 is hereby amended to read as follows:**

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~p.m.~~ **a.m.** every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during

which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. NRS 122.062 is hereby amended to read as follows:

122.062 1. ~~Any~~ **Except as otherwise provided in this subsection, any** licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this ~~State,~~ **State,** may join together as husband and wife persons who present a marriage license obtained from any county clerk **in this State or marriage licensing agent,** ~~of the State,~~ if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. **If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.** The fact that a minister is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.

2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.

Sec. 5.43. **NRS 122.080 is hereby amended to read as follows:**

122.080 1. ~~After~~ **Except as otherwise provided in subsection 2, after** receipt of the marriage license previously issued to persons wishing to be

married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection ~~3.~~ 4. any municipal judge if authorized pursuant to subsection ~~4.~~ 5. any commissioner of civil marriages within his county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.

2. *If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*

3. This section does not prohibit:

(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.

(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection ~~3.~~ 4.

~~3.~~ 4. In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

~~4.~~ 5. In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

~~5.~~ 6. Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.

**Sec. 5.47. NRS 122.120 is hereby amended to read as follows:**

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. **If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.** The certificate of marriage must be in substantially the following form:

STATE OF NEVADA  
MARRIAGE CERTIFICATE  
State of Nevada }  
                  }ss.  
County of }

This is to certify that the undersigned, ..... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ..... of the year ....., at ..... (address or church), ..... (city), Nevada, join **or rejoin, as the case may be,** in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). **(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)**

Signature of person performing  
(Seal of County Clerk)the marriage\_\_\_\_\_

Name under signature typewritten  
or printed in black ink \_\_\_\_\_

County Clerk \_\_\_\_\_

Official title of person performing  
the marriage\_\_\_\_\_

Couple's mailing address\_\_\_\_\_

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The

signature of the person performing the marriage must be an original signature.

Sec. 5.5. NRS 122.210 is hereby amended to read as follows:

122.210 If any county clerk *or marriage licensing agent* shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding \$1,000 to and for the use of the person aggrieved.

Sec. 5.6. NRS 122.220 is hereby amended to read as follows:

122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from ~~the~~ any county clerk in this State or from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the persons proposing the marriage will be joined together as husband and wife, as provided by law.

2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 6. 1. This section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become effective on July 1, 2009.

2. Section 3.5 of this act becomes effective on July 1, 2011.

3. Sections 1 to ~~1.9,~~ 1.8, inclusive, 3 ~~and 5.1 to 5.6, inclusive,~~ 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6 of this act expire by limitation on June 30, 2011.

Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 601 to Assembly Bill No. 262.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 818.

SUMMARY—Makes various changes concerning ~~the issuance of marriage licenses,~~ (BDR 11-961)

AN ACT relating to marriage; ~~authorizing certain persons to issue marriage licenses in certain counties;~~ allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose~~

~~population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel. Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.]~~

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage. **Section 5.47** of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

**Section 3** of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

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

Section 1. ~~[Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 1.1. ~~[As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 1.2. ~~[“Commercial wedding chapel” means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.] (Deleted by amendment.)~~

Sec. 1.3. ~~[“Marriage licensing agent” means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the~~

~~course, and within the scope, of his employment at a commercial wedding chapel.] (Deleted by amendment.)~~

Sec. 1.4. ~~[1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.~~

~~2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding chapel and in accordance with the provisions of this chapter and regulations adopted by the county clerk.~~

~~3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.~~

~~4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.~~

~~5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.~~

~~6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:~~

~~(a) Shall establish a course of training for applicants for certification as marriage licensing agents;~~

~~(b) Shall adopt regulations establishing standards of practice for marriage licensing agents;~~

~~(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.~~

~~7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.~~

~~8. In addition to any other remedy or penalty, the county clerk may:~~

~~(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or~~

~~(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.] (Deleted by amendment.)~~

Sec. 1.5. ~~[1. An applicant for certification as a marriage licensing agent must:~~

~~(a) Be at least 21 years of age;~~



~~(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.~~

~~(c) Not have been convicted of a felony.~~

~~(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.~~

~~(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.~~

~~(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.1 of this act and complete the training course. The county clerk shall establish the fee for the training program, which must not exceed \$100.~~

~~(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.~~

~~2.—A marriage licensing agent shall:~~

~~(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;~~

~~(b) Collect from an applicant for a marriage license all fees required by law to be collected;~~

~~(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and~~

~~(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.] (Deleted by amendment.)~~

Sec. 1.6. ~~[1.—An applicant for certification as a marriage licensing agent shall submit to the county clerk 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 county clerk shall include the statement required pursuant to subsection 1 in:~~

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

~~(b) A separate form prescribed by the county clerk.~~

~~3.—A certificate may not be issued by the county clerk if the applicant:~~

~~(a) Fails to complete or 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 county clerk 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.}] (Deleted by amendment.)~~

Sec. 1.7. ~~{1. If the county clerk 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 has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.}] (Deleted by amendment.)~~

Sec. 1.8. ~~{NRS 122.002 is hereby amended to read as follows:  
122.002 [As used in this chapter, "commissioner]" "Commissioner township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.}] (Deleted by amendment.)~~

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~{A}~~ *Except as otherwise provided in this section, a male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.*

2. *A male and a female person who are the husband and wife of each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.*

3. A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~for from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.~~ Except as otherwise provided in this subsection ~~and section 1.4 of this act,~~ the license must be issued at the county seat of that ~~the~~ county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~Before~~ **Except as otherwise provided in this section, before** issuing a marriage license, the county clerk ~~for marriage licensing agent~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~for marriage licensing agent~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~the~~:

(1) **Any secondary ~~form of identification~~ document** that contains the name **and a photograph** of the applicant ~~the~~; **or**

(2) **Any document for which identification must be verified as a condition to receipt of the document.**

➡ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[proof of]~~ the applicant's name and age. ***If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ~~for marriage licensing agent~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~for marriage licensing agent~~ shall, ***except as otherwise provided in this subsection,*** require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~for marriage licensing agent~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk for marriage licensing agent shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~for marriage licensing agent,~~ the county clerk ~~for marriage licensing agent~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, ~~for marriage licensing agent,~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, ~~for marriage licensing agent.~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~for marriage licensing agent~~ in writing. If the county clerk ~~for marriage licensing agent~~ or the district court waives the requirements of subsection 3, the county clerk ~~for marriage licensing agent~~ shall require the applicant who is able to appear before the county clerk ~~for marriage licensing agent~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~for marriage licensing agent~~ shall not require any evidence to verify a social security number.

↪ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. ***The county clerk ~~for marriage licensing agent~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.***

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~for marriage licensing agent~~ shall issue the license if the consent of the parent or guardian is:

- (a) Personally given before the clerk;
- (b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~for marriage licensing agent~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or
- (c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. ***If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~for marriage licensing agent~~ shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.***

7. If the authorization of a district court is required, the county clerk ~~for marriage licensing agent~~ shall issue the license if that authorization is given to him in writing.

~~{7.}~~ 8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~{8.}~~ 9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. ~~{NRS 122.040 is hereby amended to read as follows:~~

~~122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State, for from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage. Except as otherwise provided in this subsection, [and section 1.4 of this act,] the license must be issued at the county seat of a county. The board of county commissioners:~~

~~(a) In a county whose population is 400,000 or more:~~

~~(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the~~

designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

~~(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.~~

~~(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.~~

~~2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk [or marriage licensing agent] shall require each applicant to provide proof of the applicant's name and age. The county clerk [or marriage licensing agent] may accept as proof of the applicant's name and age an original or certified copy of any of the following:~~

~~(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.~~

~~(b) A passport.~~

~~(c) A birth certificate and:~~

~~(1) Any secondary document that contains the name and a photograph of the applicant; or~~

~~(2) Any document for which identification must be verified as a condition to receipt of the document.~~

~~3. If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.~~

~~(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.~~

~~(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.~~

~~(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.~~

~~3. Except as otherwise provided in subsection 4, the county clerk [or marriage licensing agent] issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk [or marriage licensing agent] shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk [or marriage licensing agent] shall not require any evidence~~

~~to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.~~

~~4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, [or marriage licensing agent,] the county clerk [or marriage licensing agent] may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk [or marriage licensing agent,] or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. [or marriage licensing agent.] If the district court waives the requirements of subsection 3, the district court shall notify the county clerk [or marriage licensing agent] in writing. If the county clerk [, the marriage licensing agent] or the district court waives the requirements of subsection 3, the county clerk [or marriage licensing agent] shall require the applicant who is able to appear before the county clerk [or marriage licensing agent] to:~~

~~(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.~~

~~(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk [or marriage licensing agent] shall not require any evidence to verify a social security number.~~

~~➔ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.~~

~~5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk [or marriage licensing agent] shall issue the license if the consent of the parent or guardian is:~~

~~(a) Personally given before the clerk;~~

~~(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk [or marriage licensing agent] and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or~~

~~(e) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.~~

~~6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk [or marriage licensing agent] shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.~~

~~7. If the authorization of a district court is required, the county clerk [or marriage licensing agent] shall issue the license if that authorization is given to him in writing.~~

~~8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.~~

~~9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance. (Deleted by amendment.)~~

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. ~~[NRS 122.045 is hereby amended to read as follows:~~

~~122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than \$25 for the preparation of an affidavit of correction.~~

~~2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk[.] or marriage licensing agent.~~

~~3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund. (Deleted by amendment.)~~

Sec. 5.2. ~~[NRS 122.050 is hereby amended to read as follows:~~

~~122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:~~

~~MARRIAGE LICENSE~~

~~(EXPIRES 1 YEAR AFTER ISSUANCE)~~

~~State of Nevada }~~

~~+~~

~~County of }~~

~~These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection[ 3] 4 of NRS 122.080, or a municipal judge if authorized pursuant to subsection[ 4] 5 of NRS 122.080 or any commissioner of civil marriages or his deputy within~~



~~a commissioner township wherein they are permitted to solemnize marriages, to join in marriage in .... (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant) .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And (Name of applicant) .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.~~

~~Witness my hand and the seal of the county or signature of the marriage licensing agent, this ... day of the month of ..... of the year .....~~

~~(Seal) Clerk or (Signature) Marriage Licensing Agent~~

~~Deputy clerk~~

~~Name of Commercial Wedding Chapel, if applicable] (Deleted by amendment.)~~

Sec. 5.3. ~~[NRS 122.055 is hereby amended to read as follows:~~

~~122.055—1.—The county clerk or marriage licensing agent may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.~~

~~2.—The county clerk or marriage licensing agent shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.] (Deleted by amendment.)~~

Sec. 5.35. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~[p.m.] a.m.~~ every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. ~~[NRS 122.062 is hereby amended to read as follows:~~

~~122.062—1. [Any] ***Except as otherwise provided in this subsection, any*** licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this [state.] ***State,*** may join together as husband and wife persons who present a marriage license obtained from any county clerk ***in this State or marriage licensing agent,*** [of the State.] if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. ***If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*** The fact that a minister is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.~~

~~2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.~~

~~3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.~~

~~4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.] (Deleted by amendment.)~~

Sec. 5.43. [NRS 122.080 is hereby amended to read as follows:

~~122.080—1. [After] ***Except as otherwise provided in subsection 2, after*** receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection [3,] ***4,*** any municipal judge if authorized pursuant to subsection [4,] ***5,*** any commissioner of civil marriages within his county and within a~~

~~commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.~~

~~2. If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.~~

~~3. This section does not prohibit:~~

~~(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.~~

~~(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection [3.] 4.~~

~~[3.] 4. In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[4.] 5. In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[5.] 6. Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.] (Deleted by amendment.)~~

Sec. 5.47. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. *If a male and female person who are the husband and wife*

*of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.* The certificate of marriage must be in substantially the following form:

STATE OF NEVADA  
MARRIAGE CERTIFICATE  
State of Nevada }  
}ss.  
County of }

This is to certify that the undersigned, ..... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ..... of the year ....., at ..... (address or church), ..... (city), Nevada, join ***or rejoin, as the case may be,*** in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). ***(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)***

Signature of person performing  
(Seal of County Clerk) the marriage \_\_\_\_\_

Name under signature typewritten  
or printed in black ink \_\_\_\_\_

County Clerk \_\_\_\_\_

Official title of person performing  
the marriage \_\_\_\_\_

Couple's mailing address \_\_\_\_\_

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5.5. ~~NRS 122.210 is hereby amended to read as follows:~~  
~~122.210 If any county clerk or marriage licensing agent shall issue or sign any marriage license in any manner other than is authorized by this~~

chapter, he shall forfeit and pay a sum not exceeding \$1,000 to and for the use of the person aggrieved.] **(Deleted by amendment.)**

Sec. 5.6. ~~NRS 122.220 is hereby amended to read as follows:~~

~~122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from [the] any county clerk in this State or from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the persons proposing the marriage will be joined together as husband and wife, as provided by law.~~

~~2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.] **(Deleted by amendment.)**~~

Sec. 6. ~~[1.] This [section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become] act becomes~~ effective on July 1, 2009.

~~[2. Section 3.5 of this act becomes effective on July 1, 2011.]~~

~~3. Sections 1 to 1.8, inclusive, 3, 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6 of this act expire by limitation on June 30, 2011.]~~

Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 818 to Assembly Bill No. 262.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 309.

The following Senate amendment was read:

Amendment No. 693.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) **Section 1** of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a ~~[third person]~~ **member of the person's family or household** and which actually causes a victim to feel such fear. **Section 1** also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, **section 1** adds text messaging to the existing crime of stalking

with the use of a communication device, which is punishable as a category C felony.

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, ~~or~~ harassed ~~or~~ *or fearful for the safety of a ~~third person,~~ member of the person's family or household,* and that actually causes the victim to feel terrorized, frightened, intimidated, ~~or~~ harassed ~~or~~ *or fearful for the safety of a ~~third person,~~ member of the victim's family or household,* commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a *gross* misdemeanor.

(b) For any subsequent offense, is guilty of a ~~gross misdemeanor.~~  
*category D felony and shall be punished as provided in NRS 193.130.*

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site, ~~or~~ electronic mail, *text messaging* or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) *"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.*

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site, ~~for~~ electronic mail, **text messaging** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

- (a) "Computer" has the meaning ascribed to it in NRS 205.4735.
- (b) "Network" has the meaning ascribed to it in NRS 205.4745.
- (c) "System" has the meaning ascribed to it in NRS 205.476.
- (d) ***"Text messaging" has the meaning ascribed to it in NRS 200.575.***

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site, ~~for~~ electronic mail, ***text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

- (a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;
- (b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or
- (c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

- (a) "Computer" has the meaning ascribed to it in NRS 205.4735.
- (b) "Network" has the meaning ascribed to it in NRS 205.4745.
- (c) "System" has the meaning ascribed to it in NRS 205.476.
- (d) ***"Text messaging" has the meaning ascribed to it in NRS 200.575.***



Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 693 to Assembly Bill No. 309.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 876.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; ~~increasing the penalties for the crime of stalking;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a member of the person's family or household and which actually causes a victim to feel such fear. Section 1 also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, section 1]~~ This bill adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated ~~for~~ or harassed ~~, for fearful for the safety of a member of the person's family or household,~~ and that actually causes the victim to feel terrorized, frightened, intimidated ~~for~~ or harassed ~~, for fearful for the safety of a member of the victim's family or household,~~ commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a ~~gross~~ misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor.  
~~[category D felony and shall be punished as provided in NRS 193.130.]~~

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site, ~~for~~ electronic mail, **text messaging** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) ***"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site,

~~for~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

**(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.**

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site , ~~for~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

**(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.**

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 876 to Assembly Bill No. 309.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 320.

The following Senate amendment was read:

Amendment No. 694.

AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian, under certain circumstances; requiring that a proposed adult ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed adult ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section ~~HH~~ 3** of this bill requires that a petitioner for the appointment of a guardian for a proposed adult ward provide the court with an assessment completed by a licensed physician of the proposed adult ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

**Section ~~HH~~ 4** of this bill provides that a proposed adult ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the adult ward relating to

his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section ~~5~~ 5** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section ~~5~~ 5** further provides that if a proposed ward is an adult and cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed adult ward from attending the hearing meet with the proposed adult ward and report back to the court regarding the proposed adult ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed adult ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) **Section ~~6~~ 6** of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a secured residential long-term care facility; ~~which provides long-term care and which restricts the ward from leaving the facility without supervision;~~ and (2) ~~establishes procedures for the handling of such a report following its filing.~~ **authorizes the court to determine the form and contents of such a report.**

**Section ~~7~~ 7** of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a secured residential long-term care facility. ~~which provides long-term care and restricts the ward from leaving the facility without supervision.~~ However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

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

**Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. "Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.**

**2. The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or actions of a resident or to assist a resident to perform the normal activities of daily living.**

**Sec. 2. NRS 159.013 is hereby amended to read as follows:**

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, **and section 1 of this act**, have the meanings ascribed to them in those sections.

~~[Section 1.]~~ **Sec. 3. NRS 159.044 is hereby amended to read as follows:**

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

- (a) The name and address of the petitioner.
- (b) The name, date of birth and current address of the proposed ward.
- (c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

➡ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving

compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

- (1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;
- (2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or
- (3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

**3. *Before the court makes a finding pursuant to NRS 159.054, ~~the~~ a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.***

~~{Sec. 2.}~~ **Sec. 4.** NRS 159.0485 is hereby amended to read as follows:

159.0485 1. *At the first hearing for the appointment of a guardian ~~for~~ for a proposed adult ward, the court shall advise ~~for~~ the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.*

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~{2.}~~ 3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

~~{Sec. 3.}~~ **Sec. 5.** NRS 159.0535 is hereby amended to read as follows:



159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward, ~~and~~ the reasons why the proposed ward is unable to appear in court ~~and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;~~ or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, ~~and~~ the reasons why the proposed ward is unable to appear in court ~~and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.~~

2. *A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate ~~pursuant to~~ described in subsection 1 shall:*

(a) *Inform the proposed adult ward that the petitioner ~~wishes to become the~~ is requesting that the court appoint a guardian ~~for~~ for the proposed adult ward;*

(b) *Ask the proposed adult ward for a response to the guardianship petition;*

(c) *Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and*

(d) *Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.*

3. ~~The~~ *If the proposed ward is an adult, the person who signs the certificate ~~pursuant to~~ described in subsection 1 shall state in the certificate:*

(a) *That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;*

(b) *The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and*

(c) *Any conditions that the person believes may have limited the responses by the proposed adult ward.*

4. *The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by ~~the~~ a person ~~executing the certificate pursuant to~~ identified in subsection 1.*

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

~~{Sec. 4.}~~ **Sec. 6.** NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~{and}~~

(b) Within 10 days of moving a ward to a secured residential long-term care facility ; ~~{which provides long term care and restricts the ward from leaving the facility without supervision;}~~ and

(c) At such other times as the court may order.

2. A report filed pursuant to paragraph (b) of subsection 1 must:

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the ward, if any . ~~{and on the nearest advocate for residents of facilities for long term care within the Aging Services Division of the Department of Health and Human Services; and}~~

~~{c} Be accompanied by the form prescribed by the court which allows the guardian to indicate whether or not the guardian consents to have the Aging Services Division interview the ward and prepare and transmit a report to the court concerning the transfer of the ward.~~

~~3. If the guardian consents to the preparation and transmittal of the report to the court, the Aging Services Division shall prepare the report and transmit the report to the court, the guardian and the attorney for the ward, if any. In preparing the report, the Division is not required to review generally whether the ward's transfer exceeded the services provided to residents pursuant to NRS 427A.135.~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~{3.}~~ 5. The court is not required to hold a hearing or enter an order regarding the report.

~~{Sec. 5.}~~ **Sec. 7.** NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

***(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility - ~~which provides long-term care and which restricts the ward from leaving the facility without supervision.~~***

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional

orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

**6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility ~~which provides long-term care and which restricts the ward from leaving the facility without supervision~~ if:**

**(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or**

**(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.**

**7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.**

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 694 to Assembly Bill No. 320.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 871.

**SUMMARY—Revises provisions relating to ~~guardianships;~~ protection of persons; (BDR 13-906)**

AN ACT relating to ~~guardianships;~~ protection of persons; requiring additional information in a petition for appointment of a guardian under certain circumstances; requiring that a proposed adult ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed adult ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; authorizing patients of certain facilities to install electronic surveillance devices in the room of the patient under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 3** of this bill requires that a petitioner for the appointment of a guardian for a proposed adult ward provide the court with an assessment completed by a licensed physician of the proposed adult ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

**Section 4** of this bill provides that a proposed adult ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the adult ward relating to his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section 5** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section 5** further provides that if a proposed ward is an adult and cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed adult ward from attending the hearing meet with the proposed adult ward and report back to the court regarding the proposed adult ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed adult ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) **Section 6** of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a secured residential long-term care facility; and (2) authorizes the court to determine the form and contents of such a report.

**Section 7** of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a secured residential long-term care facility. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

**Section 10 of this bill establishes the right of a patient or a person authorized to act on behalf of a patient who resides in a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups to install and operate a monitoring device in the room of the patient. Section 10 also prescribes the required waivers that must be obtained from the patient or the person authorized to act on his behalf who is installing the device and from each patient who also resides in the room or a person authorized to act on the patient's behalf.**

**Section 12 of this bill requires that the monitoring device be installed in a manner that is safe for the residents, employees and visitors to the room, that the monitoring device be installed in compliance with all applicable regulations and codes, and that all monitoring be conducted in plain view. Section 13 of this bill sets forth the conditions under which a video recording from such a monitoring device may be admitted into evidence in a civil or criminal court action or in an administrative proceeding.**

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *"Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.*

2. *The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or actions of a resident or to assist a resident to perform the normal activities of daily living.*

Sec. 2. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, **and section 1 of this act**, have the meanings ascribed to them in those sections.

Sec. 3. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

↪ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

- (1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;
- (2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or
- (3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

**3. *Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.***

Sec. 4. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if



available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~{2-}~~ 3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 5. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward, ~~and~~ the reasons why the proposed ward is unable to appear in court ~~{-}~~ *and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;* or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, ~~and~~ the reasons why the proposed ward is unable to appear in court ~~{-}~~ *and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.*

2. *A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 shall:*

*(a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward;*

*(b) Ask the proposed adult ward for a response to the guardianship petition;*

*(c) Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and*

*(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.*

3. *If the proposed ward is an adult, the person who signs the certificate described in subsection 1 shall state in the certificate:*

*(a) That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;*

*(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and*

*(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.*

**4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by a person identified in subsection 1.**

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 6. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~and~~

(b) ***Within 10 days of moving a ward to a secured residential long-term care facility; and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) ***Include a copy of the written recommendation upon which the transfer was made; and***

(b) ***Be served, without limitation, on the attorney for the ward, if any.***

3. ***The court may prescribe the form and contents for filing a report described in subsection 1.***

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~{3-}~~ 5. The court is not required to hold a hearing or enter an order regarding the report.

Sec. 7. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

***(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.***

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

***6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility if:***

***(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or***

*(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.*

*7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.*

*Sec. 8. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this act.*

*Sec. 9. As used in sections 9 to 13, inclusive, of this act, "monitoring device" means a video surveillance instrument that broadcasts or records activity. The term does not include a camera used to take still photographs.*

*Sec. 10. 1. A patient of a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups, or the person authorized pursuant to subsection 6 to act on his behalf may install and operate a monitoring device in the room of the patient if:*

*(a) The patient or the person acting on his behalf pays the expense of installing, operating and maintaining the monitoring device; and*

*(b) The waivers required pursuant to subsection 2 have been signed.*

*2. Before a monitoring device may be installed in the room of a patient pursuant to this section, a written waiver must be obtained from each patient who resides in the room in which the monitoring device will be installed and operated, or the person authorized pursuant to subsection 6 to act on the patient's behalf, including the patient or the person acting on his behalf who is installing the monitoring device. Each written waiver must include:*

*(a) Consent to the installation and operation of the monitoring device;*

*(b) A description of the type of monitoring device that will be installed;*

*(c) A description of whether the monitoring device will be in continuous operation in the room or if not, the prescribed circumstances under which the monitoring device will not be in operation to protect the dignity of a patient;*

*(d) Any conditions on the use of the device that another resident of the room requires as a condition to his consent;*

*(e) An acknowledgment that the patient or the person authorized pursuant to subsection 6 to act on his behalf releases the facility from any liability for violations of the right to privacy of the person who resides in the room in which the monitoring device is operated; and*

*(f) An acknowledgment that the patient or the person authorized pursuant to subsection 6 to act on his behalf releases the person who operates the monitoring device from violations of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.*

*3. A patient or a person authorized pursuant to subsection 6 to act on his behalf who is not installing and operating the monitoring device but*

who provides his consent for operation of the monitoring device in the room may, as a condition to his consent, require that the monitoring device be pointed away from the patient who is not installing and operating the monitoring device at all times.

4. If a monitoring device is in operation in a room and another patient is moved into the room who has not yet consented to the operation of the monitoring device, the monitoring must cease until the new resident of the room or the person authorized pursuant to subsection 6 to act on his behalf provides consent pursuant to this section.

5. A patient or a person authorized pursuant to subsection 6 to act on his behalf who signs a waiver pursuant to subsection 2:

(a) Releases the facility from liability for any violation of the right to privacy of the patient with regard to operation of a monitoring device.

(b) Releases the person who operates a monitoring device from any violation of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.

(c) May revoke his signature and reinstate the right to privacy of the patient at any time. Such revocation must be in writing and signed by the patient or a person authorized pursuant to subsection 6 to act on his behalf.

6. If a patient lacks the mental capacity to consent to the installation and operation of a monitoring device pursuant to the provisions of this section:

(a) The guardian, attorney-in-fact designated pursuant to NRS 449.800 to 449.860, inclusive, or other legal representative of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient; or

(b) If a guardian, attorney-in-fact or other legal representative has not been designated for the patient, a member of the family of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient.

Sec. 11. 1. At the time of admission, a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall notify a patient or the person authorized to act on his behalf pursuant to subsection 6 of section 10 of this act of the right to install and operate a monitoring device pursuant to sections 9 to 13, inclusive, of this act. A facility shall not:

(a) Deny the admission of;

(b) Discharge from the facility; or

(c) Otherwise discriminate or retaliate against,

↪ a patient who wishes to have or has a monitoring device installed and operated in his room.

2. A facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall:

(a) Cooperate with a patient or the person authorized to act on his behalf pursuant to subsection 6 of section 10 of this act to accommodate the installation of a monitoring device in the room of the patient;

(b) Post a notice at each public entrance to the facility stating that the rooms of some of the residents may be under electronic surveillance by or on behalf of the residents; and

(c) Post a notice in a conspicuous place at the entrance to each room in which a monitoring device is in use stating that the room is under electronic surveillance.

Sec. 12. 1. A monitoring device that is used pursuant to sections 9 to 13, inclusive, of this act must be installed in a manner that:

(a) Is safe for the residents, employees and visitors of the facility who may be in the room in which the monitoring device is installed.

(b) Complies with all applicable regulations and codes, including, without limitation, all building codes, health codes, and safety codes for the jurisdiction in which the facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility is located.

2. All monitoring authorized pursuant to sections 9 to 13, inclusive, of this act must be conducted in plain view.

Sec. 13. 1. Subject to the applicable rules of evidence and procedure and the provisions of this section, a video recording created through the use of a monitoring device that is installed and operated in accordance with sections 9 to 13, inclusive, of this act may be admitted into evidence in a civil or criminal court action or in an administrative proceeding if the contents of the video recording have not been edited, artificially enhanced or otherwise tampered with.

2. The video recording must not be admitted pursuant to subsection 1 unless the recording clearly shows the date and time of the events that are the subject of the action or proceeding.

3. If the contents of the video recording have been transferred from the original format to another technological format, the video recording in the transferred format must not be admitted pursuant to subsection 1 unless the transfer was done by qualified personnel and the contents of the video recording were not altered or otherwise tampered with.

Sec. 14. Each facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall, on or before October 1, 2009, notify each patient who resides in the facility on that date or the person authorized to act on behalf of the patient pursuant to subsection 6 of section 10 of this act of the right of the patient or the person authorized to act on his behalf to install and operate a monitoring device pursuant to the provisions of sections 9 to 13, inclusive, of this act.

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 871 to Assembly Bill No. 320.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered transmitted to the Senate.

Assembly Bill No. 152.

The following Senate amendment was read:

Amendment No. 770.

AN ACT relating to mortgage lending; defining the term “loan modification consultant”; requiring certain mortgage lending professionals to be licensed ~~[as a mortgage agent or mortgage broker]~~; **establishing certain requirements for the provision of services by certain mortgage lending professionals; establishing provisions governing compensation of certain mortgage lending professionals; establishing certain powers of the Commissioner of Mortgage Lending; revising provisions relating to the imposition of certain fees and assessments on certain mortgage lending professionals;** revising the definition of “homeowner” as it applies to services performed by certain mortgage lending professionals; revising provisions governing the applicability of requirements regarding foreclosure consultants and loan modification consultants; ~~[revising provisions governing compensation of foreclosure consultants];~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

**Section 2** of this bill defines the term “loan modification consultant.”

Existing law does not currently require a foreclosure consultant to be licensed. (NRS 645F.300-645F.450) **Section 3** of this bill requires **the Commissioner of Mortgage Lending to adopt separate regulations for the licensing of** a person who performs any of a variety of specified services for compensation, a foreclosure consultant and a loan modification consultant ~~to be licensed under the provisions of chapter 645B of NRS, which governs mortgage brokers and mortgage agents. This licensing requirement makes such persons subject to the regulatory and penalty provisions set forth in chapter 645B of NRS.~~

**Section 3.1 of this bill requires such persons to execute a written contract with a homeowner before providing certain services for compensation. Section 3.1 also requires the Commissioner to adopt regulations describing the information that must be contained in such a written contract.**

**Sections 3.3 and 6.5 of this bill require a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant to deposit any money received as compensation for the performance of certain services in a trust account. Section 3.3 also requires such persons to maintain certain records regarding such trust accounts and prohibits withdrawals from such trust accounts until the completion of certain services as agreed upon in a written contract for the performance of such services. Section 3.3 further authorizes the Commissioner or his authorized agents to inspect and audit the records associated with the trust accounts.**

Section 3.5 of this bill grants certain additional powers to the Commissioner with regard to the conduct of any examination, periodic or special audit, investigation or hearing.

Section 3.7 of this bill requires the Commissioner to adopt regulations to establish rates to be paid by a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant for supervision and examinations by the Commissioner or the Division of Mortgage Lending of the Department of Business and Industry. (NRS 645F.280) Section 3.9 of this bill requires the Commissioner to collect an assessment from such persons for deposit in the Fund for Mortgage Lending. (NRS 645F.290)

Section 5 of this bill revises the definition of “homeowner” as it applies to services performed by foreclosure consultants by expanding the definition to include any record owner of residence, rather than only the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded or the notice of default and election to sell is recorded. (NRS 645F.360)

Section 6 of this bill provides that an attorney at law is exempt from the provisions governing a person who performs any covered service for compensation, a loan modification consultant, a foreclosure consultant or a foreclosure purchaser unless the services rendered by the attorney are performed in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent. (NRS 645F.380)

~~Section 6.5 of this bill clarifies that a foreclosure consultant is prohibited from claiming, demanding, charging, collecting or receiving any compensation until after the foreclosure consultant has fully performed every covered service he contracted to perform or represented he would perform, rather than after the performance of any individual service.]~~ provides that the violation of certain provisions by such persons shall be deemed to constitute mortgage lending fraud, as that term is described in NRS 205.372. (NRS 645F.400)

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~and 3~~ to 3.5, inclusive, of this act.

Sec. 2. *“Loan modification consultant” means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any act that the person represents will adjust the terms of a mortgage loan in a manner not provided for in the original or previously modified mortgage loan. Such an adjustment includes, without limitation:*

1. *A change in the payment amount;*
2. *A change in the loan amount;*
3. *A loan forbearance;*



4. A change in the loan maturity; and

5. A change in the interest rate.

Sec. 3. ~~AA~~

1. The Commissioner shall adopt separate regulations for the licensing of:

(a) A person who performs any covered service for compensation, ~~and~~ ;

(b) A foreclosure consultant ~~and~~ ; and

(c) A loan modification consultant . ~~must be licensed pursuant to chapter 645B of NRS in the following manner:~~

~~1. As a mortgage broker; or~~

~~2. If the person:~~

~~(a) Is an employee or independent contractor of a foreclosure consultant or loan modification consultant; and~~

~~(b) Is authorized by the foreclosure consultant or loan modification consultant to engage in, on behalf of the foreclosure consultant or loan modification consultant, any activity that would require the person, if he were not an employee or independent contractor of the foreclosure consultant or loan modification consultant, to be licensed pursuant to subsection 1,~~

~~as a mortgage agent.]~~

2. The regulations must prescribe, without limitation:

(a) The method and form of application for a license;

(b) The method and form of the issuance, denial or renewal of a license;

(c) The grounds and procedures for the revocation, suspension or nonrenewal of a license; and

(d) The imposition of reasonable fees for application and licensure.

Sec. 3.1. 1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall execute a written contract with a homeowner before providing any covered service.

2. The Commissioner shall adopt regulations describing the information that must be contained in a written contract for covered services.

Sec. 3.3. 1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:

(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;

(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and

(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification

consultant until the completion of every covered service as agreed upon in the contract for covered services.

2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and his authorized representatives.

3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.

4. As used in this section, "completion of every covered service" means:

(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or

(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,

as verified in a written statement provided to the homeowner.

Sec. 3.5. 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) Administer oaths.

(c) Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

**3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.**

**Sec. 3.7. NRS 645F.280 is hereby amended to read as follows:**

645F.280 1. The Commissioner shall establish by regulation rates to be paid by escrow agencies, mortgage agents, mortgage brokers ~~, and~~ mortgage bankers **, persons who perform any covered service for compensation, foreclosure consultants and loan modification consultants** for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

- (a) The complexity of the various examinations to which the rate applies;
- (b) The skill required to conduct the examinations;
- (c) The expenses associated with conducting the examination and preparing a report; and
- (d) Any other factors the Commissioner deems relevant.

**Sec. 3.9. NRS 645F.290 is hereby amended to read as follows:**

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

- (a) Escrow agency that is supervised pursuant to chapter 645A of NRS;
- (b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~and~~
- (c) Mortgage banker that is supervised pursuant to chapter 645E of NRS ~~and~~; **and**
- (d) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter.**

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

- (a) An equal basis; or
- (b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 4. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~and 3~~ to 3.5, inclusive, of this act***, unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 645F.360 is hereby amended to read as follows:

645F.360 "Homeowner" means the record owner of a residence , ***including, without limitation, the record owner of a residence*** in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 6. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~and 3~~ to 3.5, inclusive, of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law ~~{ }~~ , ***unless the attorney at law is rendering those services in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent;***

2. A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;

3. ~~{A person licensed as a real estate broker, broker salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4.}~~ A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

~~{5.}~~ **4.** A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

~~{6.}~~ **5.** Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

~~{7.}~~ 6. A person, *other than a ~~[mortgage agent or mortgage broker,~~ person who is licensed pursuant to section 3 of this act,* who is licensed ~~[as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker]~~ pursuant to *chapter 692A or any chapter [645A, 692A, 645B or 645E]* of title 54 of NRS ~~[, respectively,]~~ while acting under the authority of his license;

~~{8.}~~ 7. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

~~{9.}~~ 8. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

**Sec. 6.5.** NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A *person who performs any covered service, a foreclosure consultant and a loan modification consultant* shall not:

~~{1. Claim,}~~

~~(a) Claim,~~ demand, charge, collect or receive any compensation ~~[until after the foreclosure consultant has fully performed] [each] [every covered service that he contracted to perform or represented he would perform]~~

~~2. except in accordance with section 3.3 of this act.~~

~~(b)~~ Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

~~{3.}~~ ~~(c)~~ Take any wage assignment, lien on real or personal property, assignment of a homeowner's equity or other interest in a residence in foreclosure or other security for the payment of compensation. Any such security is void and unenforceable.

~~{4.}~~ ~~(d)~~ Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

~~{5.}~~ ~~(e)~~ Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.

~~{6.}~~ ~~(f)~~ Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

**Sec. 7.** NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act, including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for

not more than 1 year, or by a fine of not more than \$50,000, or by both fine and imprisonment.

Sec. 8. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act**, including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 9. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in

equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 10. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who, with the intent to defraud a participant in a mortgage lending transaction:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

↪ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, 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, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, 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, or by a fine of not more than \$50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
- (2) The representation or offer to represent another person to make or obtain the loan;
- (3) The negotiation of the terms of the loan;
- (4) The provision of services in connection with the loan; and
- (5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in NRS 645F.320;
- (4) A foreclosure purchaser as defined in NRS 645F.330;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) *A loan modification consultant as defined in section 2 of this act;*
- (8) A mortgage agent as defined in NRS 645B.0125;
- ~~{(8)}~~ (9) A mortgage banker as defined in NRS 645E.100; and
- ~~{(9)}~~ (10) A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

**Sec. 10.5. The Commissioner of Mortgage Lending shall adopt regulations required by sections 3 and 3.1 of this act and submit the regulations to the Legislative Commission for review within 90 days after the passage and approval of this act.**

Sec. 11. This act becomes effective ~~for~~ **on** :

**1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and**

**2. On July 1, 2009 ~~for~~ for all other purposes.**

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 152.



Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 162.

The following Senate amendment was read:

Amendment No. 699.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide an option of coverage for screening for and treatment of autism; authorizing the Board of Psychological Examiners to license behavior analysts and ~~assistant behavior analysts and to certify~~ autism behavior ~~therapists;~~ **interventionists; increasing the size of the Board of Psychological Examiners from five members to seven members;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) **Sections 1-8.5** of this bill require certain health care plans and policies of insurance to also provide an option ~~or a requirement, as applicable,~~ of coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

~~Sections 12 and 13~~ **-12.4 and 12.7-14.5** of this bill provide for the licensure of behavior analysts and ~~assistant behavior analysts and the certification of~~ autism behavior ~~therapists~~ **interventionists** by the Board of Psychological Examiners.

**Sections 12.5 and 12.6 of this bill increase the size of the Board of Psychological Examiners from five members to seven members, adding one member who is a licensed behavior analyst and one member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.**

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after January 1, 2011.

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 or, if enrolled in high school, ~~under~~ until the person reaches the age of ~~21~~ 22.*

2. *Optional coverage provided pursuant to this section must be subject to:*

(a) *A maximum benefit of not less than \$36,000 per year for applied behavior analysis treatment; and*

(b) *Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.*

3. ~~[An insurer]~~ *A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:*

(a) *Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or*

(b) *Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.*

4. *Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

5. *Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) *Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

(b) *Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

↪ *An insurer may request a copy of and review a treatment plan created pursuant to this subsection.*

6. *Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

7. *As used in this section:*

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~for a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~((e))~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~((f))~~ (g) "Licensed ~~autism~~ assistant behavior ~~therapist~~ analyst" means a person who ~~is~~ holds current certification or meets the standards to be certified as ~~an autism~~ a board certified assistant behavior ~~therapist~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~or~~ or psychologist.

~~((g))~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor

*in interest to that organization , and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

~~(((i)))~~ (i) *"Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

~~(((j)))~~ (j) *"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~(((k)))~~ (k) *"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

~~(((l)))~~ (l) *"Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

~~(((m)))~~ (m) *"Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

~~(((n)))~~ (n) *"Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~may~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[ ]~~, *and section 1 of this act.*

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, ~~under~~ until the person reaches the age of ~~21~~ 22.*

*2. Coverage provided under this section is subject to:*

*(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and*

*(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance ~~policy~~ to the same extent as other medical services or prescription drugs covered by the policy.*

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) *Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or*

(b) *Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.*

4. *Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

5. *Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) *Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

(b) *Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

↪ *An insurer may request a copy of and review a treatment plan created pursuant to this subsection.*

6. *A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.*

7. *Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

8. *As used in this section:*

(a) *"Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~for a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) *"Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

- (1) A licensed psychologist;*
- (2) A licensed behavior analyst; or*
- (3) A licensed assistant behavior analyst.*

(e) *"Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

~~((e))~~ (f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

~~((f))~~ (g) *"Licensed ~~autism~~ assistant behavior ~~therapist~~" analyst" means a person who ~~is~~ holds current certification or meets the standards to be certified as ~~an autism~~ a board certified assistant behavior ~~therapist~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~or psychologist.~~*

~~((g))~~ (h) *"Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

~~((h))~~ (i) *"Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

~~((i))~~ (j) *"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~[(l)]~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~[(m)]~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[(n)]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 3.5. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the ~~[(policy of group) health insurance]~~ benefit plan under the age of 18 or, if enrolled in high school, ~~[(under)]~~ until the person reaches the age of ~~[(21)]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[(insurance policy)]~~ benefit plan to the same extent as other medical services or prescription drugs covered by the ~~[(policy)]~~ plan.

3. ~~[(An insurer)]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the ~~[(policy)]~~ plan; or

(b) Refuse to issue a ~~[(policy of group) health insurance]~~ benefit plan or cancel a ~~[(policy of group) health insurance]~~ benefit plan solely because the person applying for or covered by the ~~[(policy)]~~ plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, ~~[(an insurer)]~~ a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ ~~{An insurer}~~ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.

6. A ~~{policy}~~ health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the ~~{policy}~~ plan or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring ~~{an insurer}~~ a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~for a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.



~~[(e)]~~ (f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

~~[(f)]~~ (g) *"Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

(h) *"Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

~~[(g)]~~ *"Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.*

~~[(h)]~~ (i) *"Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

~~[(i)]~~ (j) *"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~[(j)]~~ (k) *"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

~~[(k)]~~ (l) *"Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

~~[(l)]~~ (m) *"Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

~~[(m)]~~ (n) *"Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~may~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~under~~ until the person reaches the age of ~~21~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~insurance policy~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~policy~~ plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an ~~insured~~ enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an ~~insured~~ enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ ~~An insurer~~ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring ~~an insurer~~ a health maintenance organization to provide reimbursement to an early

intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~for a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~((e))~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~((f))~~ (g) "Licensed ~~autism~~ assistant behavior ~~therapist~~ analyst" means a person who ~~is~~ holds current certification or meets the standards to be certified as ~~an autism~~ a board certified assistant behavior ~~therapist~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~or~~ or psychologist.

~~((g))~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board

*certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

~~(((i)))~~ (i) *"Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

~~(((j)))~~ (j) *"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~(((k)))~~ (k) *"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

~~(((l)))~~ (l) *"Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

~~(((m)))~~ (m) *"Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

~~(((n)))~~ (n) *"Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~is~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, **and section 5 of this act**, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This

subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section 5 of this act*, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~under~~ until the person reaches the age of ~~21~~ 22.**

**2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.**

**3. Coverage provided under this section is subject to:**

**(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and**

**(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~insurance policy~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~policy~~ plan.**

**~~3.~~ 4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:**

(a) *Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*

(b) *Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*

~~4.4~~ 5. *Except as provided in subsections 1 ~~and 2,~~ 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

~~5.5~~ 6. *Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) *Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

(b) *Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

↪ ~~{An insurer}~~ A managed care organization *may request a copy of and review a treatment plan created pursuant to this subsection.*

~~6.6~~ 7. *An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or ~~2,~~ 3 is void.*

~~7.7~~ 8. *Nothing in this section shall be construed as requiring ~~an insurer}~~ a managed care organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

~~8.8~~ 9. *As used in this section:*

(a) *"Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention*

*programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~for a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~, licensed assistant behavior analyst or certified autism behavior interventionist.*

*(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

*(1) A licensed psychologist;*

*(2) A licensed behavior analyst; or*

*(3) A licensed assistant behavior analyst.*

*(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

~~##~~ *(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

~~##~~ *(g) "Licensed ~~autism~~ assistant behavior ~~therapist~~ analyst" means a person who ~~is~~ holds current certification or meets the standards to be certified as ~~an autism~~ a board certified assistant behavior ~~therapist~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~or~~ or psychologist.*

~~##~~ *(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

~~##~~ *(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

~~##~~ *(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~##~~ *(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*



~~((k))~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~((l))~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~((m))~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~is~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 8.5. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~and~~ 695G.430 **and section 8 of this act** do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 641 of NRS is hereby amended by adding thereto ~~a new section to read~~ the provisions set forth as follows, sections 12.1, 12.2 and 12.3 of this act.

**Sec. 12.1. 1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:**

**(a) Is at least 18 years of age.**

**(b) Is of good moral character as determined by the Board.**

**(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.**

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 12.2. The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior ~~therapist~~ interventionist.

Sec. 12.3. 1. A licensed assistant behavior analyst shall not provide or supervise behavior therapy except under the supervision of:

(a) A licensed psychologist; or

(b) A licensed behavior analyst.

2. A certified autism behavior interventionist shall not provide behavior therapy except under the supervision of:

(a) A licensed psychologist;

(b) A licensed behavior analyst; or

(c) A licensed assistant behavior analyst.

Sec. 12.4. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in section 1 of this act and NRS 641.021 to 641.027, inclusive, have the meanings ascribed to them in those sections.

Sec. 12.5. NRS 641.030 is hereby amended to read as follows:

641.030 The Board of Psychological Examiners, consisting of ~~five~~ seven members appointed by the Governor, is hereby created.

Sec. 12.6. NRS 641.040 is hereby amended to read as follows:

641.040 1. The Governor shall appoint to the Board:

(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) One member who is a licensed behavior analyst in the State of Nevada.

(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

(d) One member who is a representative of the general public.

2. A person is not eligible for appointment unless he is:

- (a) A citizen of the United States; and
- (b) A resident of the State of Nevada.

3. The member who is a representative of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

**Sec. 12.7. NRS 641.100 is hereby amended to read as follows:**

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination ~~, [and]~~ licensure **and certification** of applicants, the granting, refusal, revocation or suspension of licenses ~~[and]~~ **and certificates** and the practice of psychology.

**Sec. 12.8. NRS 641.110 is hereby amended to read as follows:**

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure ~~[and]~~ **and certification**.

2. License **and certify** qualified applicants.

3. Revoke or suspend licenses ~~[and]~~ **and certificates**.

4. Collect all fees and make disbursements pursuant to this chapter.

**Sec. 13. NRS 641.170 is hereby amended to read as follows:**

641.170 1. Each application ***for licensure as a psychologist*** must be accompanied by evidence satisfactory to the Board that the applicant:

- (a) Is at least 21 years of age.
- (b) Is of good moral character as determined by the Board.
- (c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ~~*Each application for licensure as a behavior analyst for autism behavior therapist must be accompanied by evidence satisfactory to the Board that the applicant:*~~

- (a) ~~*Is at least 21 years of age.*~~
- (b) ~~*Is of good moral character as determined by the Board.*~~

(c) *Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.*

(d) *Has earned a master's degree from an accredited college or university in a field of social science or special education approved by the Board.*

(e) *Has completed other education, ~~for~~ training or experience in accordance with the requirements established by regulations of the Board.*

(f) *Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.*

3. *Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:*

(a) *Is at least 21 years of age.*

(b) *Is of good moral character as determined by the Board.*

(c) *Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.*

(d) *Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board.*

(e) *Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.*

(f) *Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.*

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ; ~~as a psychologist;~~ and

(b) Issue a written statement to the applicant of its determination.

~~2. 5.~~ The written statement issued to the applicant pursuant to subsection ~~{2} {3} 4~~ must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant *for licensure as a psychologist* has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license *as a psychologist* must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written

examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

- (a) Is licensed in another state;
- (b) Has 10 years experience; and
- (c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

**Sec. 14.5. NRS 641.370 is hereby amended to read as follows:**

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination ..... \$100

For the special ~~oral~~ examination, in addition to the actual costs to the Board of the examination ..... 100

For the issuance of an initial license or certificate ..... 25

For the biennial renewal of a license of a psychologist ..... 500

For the biennial renewal of a license of a licensed behavior analyst ..... 400

For the biennial renewal of a license of a licensed assistant behavior analyst ..... 275

For the biennial renewal of a certificate of a certified autism behavior interventionist ..... 175

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license ..... 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology ..... 300

For the registration of a nonresident to practice as a consultant ..... 100

2. An applicant who passes the examination and is eligible for a license or certificate shall pay the biennial fee for the renewal of a license or certificate which must be prorated for the period from the date the license or certificate is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other

incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 15. The Board of Psychological Examiners shall begin licensing behavior analysts and ~~autism~~ assistant behavior ~~therapists~~ analysts pursuant to section 13 of this act and certifying autism behavior interventionists pursuant to section 12.1 of this act no later than January 1, 2010.

Sec. 16. ~~It~~ This act becomes effective ~~upon~~ :

1. Upon passage and approval for the purpose of adopting regulations, ~~and~~ licensing behavior analysts and assistant behavior analysts and certifying autism behavior ~~therapists~~ interventionists; and

2. ~~This section and sections 3 to 15, inclusive, of this act become effective on October 1, 2009.~~

3. ~~Sections 1 and 2 of this act become effective on~~ On January 1, 2011 ~~It, for all other purposes.~~

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 699 to Assembly Bill No. 162.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 908.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide an option of coverage for screening for and treatment of autism; authorizing the Board of Psychological Examiners to license behavior analysts and assistant behavior analysts and to certify autism behavior interventionists; increasing the size of the Board of Psychological Examiners from five members to seven members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) ~~Sections 1-10.5~~ 10.5 of this bill require certain health care plans and policies of insurance to also provide an option or a requirement, as applicable, of coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

**Sections 12-12.4 and 12.7-14.5** of this bill provide for the licensure of behavior analysts and assistant behavior analysts and the certification of autism behavior interventionists by the Board of Psychological Examiners.

**Sections 12.5 and 12.6** of this bill increase the size of the Board of Psychological Examiners from five members to seven members, adding one member who is a licensed behavior analyst and one member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after January 1, 2011, ~~or July 1, 2011, as applicable.~~

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.*

*2. Optional coverage provided pursuant to this section must be subject to:*

*(a) A maximum benefit of not less than \$36,000 per year for applied behavior analysis treatment; and*

*(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.*

*3. A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:*

*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or*

*(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.*

*4. Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

*5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) *Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

(b) *Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

↪ *An insurer may request a copy of and review a treatment plan created pursuant to this subsection.*

6. *Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

7. *As used in this section:*

(a) *"Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) *"Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

(1) *A licensed psychologist;*

(2) *A licensed behavior analyst; or*

(3) *A licensed assistant behavior analyst.*

(e) *"Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

(f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

(g) *"Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst*



*Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

*(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

*(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

*(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

*(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

*(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

*(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

*(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[-]~~, **and section 1 of this act.**

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.**

**2. Coverage provided under this section is subject to:**

**(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and**

*(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance to the same extent as other medical services or prescription drugs covered by the policy.*

*3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:*

*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or*

*(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.*

*4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

*5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

*(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

*(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

*↪ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.*

*6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.*

*7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

*8. As used in this section:*

*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) *"Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

- (1) A licensed psychologist;*
- (2) A licensed behavior analyst; or*
- (3) A licensed assistant behavior analyst.*

(e) *"Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

(f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

(g) *"Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

(h) *"Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

(i) *"Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

(j) *"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

(k) *"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

(l) *"Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

(m) *"Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

(n) *"Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 3.5. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health benefit plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.*

2. *Coverage provided under this section is subject to:*

(a) *A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and*

(b) *Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health benefit plan to the same extent as other medical services or prescription drugs covered by the plan.*

3. *A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:*

(a) *Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*

(b) *Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*

4. *Except as provided in subsections 1 and 2, a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

5. *Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) *Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

(b) *Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

↪ *A carrier may request a copy of and review a treatment plan created pursuant to this subsection.*

6. *A health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsections 1 or 2 is void.*

7. *Nothing in this section shall be construed as requiring a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

8. *As used in this section:*

(a) *"Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) *"Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

- (1) *A licensed psychologist;*
- (2) *A licensed behavior analyst; or*
- (3) *A licensed assistant behavior analyst.*

(e) *"Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

(f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

(g) *"Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization,*

*who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

*(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

*(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

*(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

*(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

*(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

*(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

*(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.*

*2. Coverage provided under this section is subject to:*

*(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and*

*(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.*

*3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:*

*(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*

*(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*

*4. Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an enrollee may make to any person, entity or group for treatment of autism spectrum disorders.*

*5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

*(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

*(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

*➡ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.*

*6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 2 is void.*

*7. Nothing in this section shall be construed as requiring a health maintenance organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

*8. As used in this section:*

*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

*(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

*(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

*(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of*

*Psychological Examiners and who provides behavior therapy under the supervision of:*

- (1) A licensed psychologist;*
- (2) A licensed behavior analyst; or*
- (3) A licensed assistant behavior analyst.*

*(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

*(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

*(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

*(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

*(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

*(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

*(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

*(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

*(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

*(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any



health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, **and section 5 of this act**, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, **and section 5 of this act**, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

***1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to***

*persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.*

*2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.*

*3. Coverage provided under this section is subject to:*

*(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and*

*(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.*

*4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:*

*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*

*(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*

*5. Except as provided in subsections 1, 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*

*6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

*(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and*

*(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.*

*↪ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.*

*7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 3 is void.*

*8. Nothing in this section shall be construed as requiring a managed care organization to provide reimbursement to an early intervention agency*

*or school for services delivered through early intervention or school services.*

9. *As used in this section:*

(a) *"Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*

(b) *"Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*

(c) *"Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) *"Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:*

- (1) A licensed psychologist;*
- (2) A licensed behavior analyst; or*
- (3) A licensed assistant behavior analyst.*

(e) *"Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*

(f) *"Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*

(g) *"Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.*

(h) *"Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest*

*to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.*

*(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.*

*(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

*(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

*(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

*(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

*(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 8.5. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~and~~ 695G.430 **and section 8 of this act** do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. (Deleted by amendment.)

**Sec. 9.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance**

through a plan of self-insurance must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the plan of self-insurance under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a plan of self-insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan of self-insurance; or

(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan of self-insurance uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance may request a copy of and review a treatment plan created pursuant to this subsection.

6. A plan of self-insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan of self-insurance or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Development Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst

Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavior therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 10. (Deleted by amendment.)

**Sec. 10.5. NRS 287.04335 is hereby amended to read as follows:**

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, ~~and~~ 695G.405 ~~and~~ and section 8 of this act in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 12.1, 12.2 and 12.3 of this act.

Sec. 12.1. 1. *Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:*

*(a) Is at least 18 years of age.*

*(b) Is of good moral character as determined by the Board.*

*(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.*



*(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.*

*2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:*

*(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and*

*(b) Issue a written statement to the applicant of its determination.*

*3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.*

*Sec. 12.2. The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.*

*Sec. 12.3. 1. A licensed assistant behavior analyst shall not provide or supervise behavior therapy except under the supervision of:*

*(a) A licensed psychologist; or*

*(b) A licensed behavior analyst.*

*2. A certified autism behavior interventionist shall not provide behavior therapy except under the supervision of:*

*(a) A licensed psychologist;*

*(b) A licensed behavior analyst; or*

*(c) A licensed assistant behavior analyst.*

*Sec. 12.4. NRS 641.020 is hereby amended to read as follows:*

*641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in **section 1 of this act and** NRS 641.021 to 641.027, inclusive, have the meanings ascribed to them in those sections.*

*Sec. 12.5. NRS 641.030 is hereby amended to read as follows:*

*641.030 The Board of Psychological Examiners, consisting of ~~five~~ **seven** members appointed by the Governor, is hereby created.*

*Sec. 12.6. NRS 641.040 is hereby amended to read as follows:*

*641.040 1. The Governor shall appoint to the Board:*

*(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.*

*(b) One member who is a licensed behavior analyst in the State of Nevada.*

*(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.*

*(d) One member who is a representative of the general public.*

*2. A person is not eligible for appointment unless he is:*

*(a) A citizen of the United States; and*

(b) A resident of the State of Nevada.

3. The member who is a representative of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

Sec. 12.7. NRS 641.100 is hereby amended to read as follows:

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination, ~~and~~ licensure **and certification** of applicants, the granting, refusal, revocation or suspension of licenses ~~and~~ **certificates** and the practice of psychology.

Sec. 12.8. NRS 641.110 is hereby amended to read as follows:

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure ~~and~~ **certification**.

2. License **and certify** qualified applicants.

3. Revoke or suspend licenses ~~and~~ **certificates**.

4. Collect all fees and make disbursements pursuant to this chapter.

Sec. 13. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application **for licensure as a psychologist** must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. **Each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:**

**(a) Is at least 21 years of age.**

**(b) Is of good moral character as determined by the Board.**

**(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.**

*(d) Has earned a master's degree from an accredited college or university in a field of social science or special education approved by the Board.*

*(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.*

*(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.*

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

*(a) Is at least 21 years of age.*

*(b) Is of good moral character as determined by the Board.*

*(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.*

*(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board.*

*(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.*

*(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.*

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ; ~~as a psychologist;~~ and

(b) Issue a written statement to the applicant of its determination.

~~{3-}~~ 5. The written statement issued to the applicant pursuant to subsection ~~{2-}~~ 4 must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant *for licensure as a psychologist* has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license *as a psychologist* must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

- (a) Is licensed in another state;
- (b) Has 10 years experience; and
- (c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 14.5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination .....	\$100
For the special <del>foral</del> examination, in addition to the actual costs to the Board of the examination .....	100
For the issuance of an initial license <i>or certificate</i> .....	25
For the biennial renewal of a license <i>of a psychologist</i> .....	500
<i>For the biennial renewal of a license of a licensed behavior analyst .....</i>	<i>400</i>
<i>For the biennial renewal of a license of a licensed assistant behavior analyst .....</i>	<i>275</i>
<i>For the biennial renewal of a certificate of a certified autism behavior interventionist .....</i>	<i>175</i>
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license .....	100
For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology .....	300
For the registration of a nonresident to practice as a consultant .....	100

2. An applicant who passes the examination and is eligible for a license *or certificate* shall pay the biennial fee for the renewal of a license *or certificate* which must be prorated for the period from the date the license *or certificate* is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 15. The Board of Psychological Examiners shall begin licensing behavior analysts and assistant behavior analysts pursuant to section 13 of this act and certifying autism behavior interventionists pursuant to section 12.1 of this act no later than January 1, 2010.

**Sec. 15.3. Notwithstanding the provisions of subsection 7 of section 8 of this act, a plan of self-insurance governed by NRS 287.04335, as amended by section 10.5 of this act, shall not have the legal effect of including the coverage required pursuant to subsection 1 of section 8 of this act unless it is delivered, issued for delivery or renewed on or after July 1, 2011.**

**Sec. 15.5. The provisions 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. 16. **1. This [act becomes] section and sections 1 to 9, inclusive, 10 and 11 to 15, inclusive, of this act become** effective:

~~1.~~ **(a) Upon passage and approval for the purpose of adopting regulations, licensing behavior analysts and assistant behavior analysts and certifying autism behavior interventionists; and**

~~2.~~ **(b) On January 1, 2011, for all other purposes.**

**2. Sections 9.5, 10.5, 15.3 and 15.5 of this act become effective:**

**(a) Upon passage and approval for the purposes of adopting regulations; and**

**(b) On July 1, 2011, for all other purposes.**

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 908 to Assembly Bill No. 162.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 202.

The following Senate amendment was read:

Amendment No. 812.

AN ACT relating to cosmetology; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; increasing the required instruction hours for an aesthetician; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Sections 1 and 3** of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring, ~~[and threading.]~~ (NRS 644.0205, 644.023) **Section 5** of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

**Section 11** of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) **Section 13** of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1, 2010. (NRS 644.197) **Section 15** of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) **Section 16** of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the State Board of Cosmetology may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) **Section 17** of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

Existing law sets forth the requirements which must be met before the Board renews a license issued pursuant to chapter 644 of NRS. (NRS 644.325) Section 24.5 of this bill requires that before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control.

**Section 29** of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

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

Section 1. NRS 644.0205 is hereby amended to read as follows:

644.0205 1. "Aesthetician" means any person who engages in the practices of:

~~1-1~~ (a) Beautifying, massaging, cleansing or stimulating the skin of the human body ~~[except the scalp,]~~ by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

~~1-2~~ (b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body ~~;~~ ~~[except the scalp,]~~ and

~~1-3~~ (c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, ~~for~~ tweezers, ~~or sugaring, for threading,~~ or sugaring, but does not include the branches of cosmetology of a cosmetologist, hair designer, electrologist or ~~manicurist,~~ **nail technologist.**

**2. As used in this section, “depilatories” does not include the practice of threading.**

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 “Cosmetological establishment” means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~manicurists~~ **nail technologists** practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 **1.** “Cosmetologist” means a person who engages in the practices of:

~~1-1~~ **(a)** Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

~~2-1~~ **(b)** Cutting, trimming or shaping the hair.

~~3-1~~ **(c)** Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.

~~4-1~~ **(d)** Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing, ~~for~~ tweezers ~~or sugaring, or threading,~~ except for the permanent removal of hair with needles.

~~5-1~~ **(e)** Manicuring the nails of any person.

~~6-1~~ **(f)** Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

~~7-1~~ **(g)** Giving facials or skin care or applying cosmetics or eyelashes to any person.

**2. As used in this section, “depilatories” does not include the practice of threading.**

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 “Cosmetology” includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~manicurist~~ **nail technologist**.

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~“Manicurist”~~ **“Nail technologist”** means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another’s fingernails or toenails.
2. Beautification of another’s nails.
3. Extension of another’s nails.
4. Massaging of another’s hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~manicurist,~~ **nail technologist**, one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~manicurist,~~ **nail technologist**, electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~manicurist,~~ **nail technologist** for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than \$40 and not more than \$75 for the issuance of a provisional license as an instructor.



3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~from~~ *after* the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

- (a) Be licensed as a cosmetologist pursuant to this chapter.
- (b) Have successfully completed the 12th grade in school or its equivalent.
- (c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.
- (d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a *licensed* provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than \$60 and not more than \$90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

- (a) Is at least 18 years of age;
- (b) Is of good moral character;
- (c) Has successfully completed the 12th grade in school or its equivalent;
- (d) Has received a minimum of ~~{800}~~ 700 hours of training as an instructor or ~~{400}~~ 500 hours of training as a *licensed* provisional instructor in a licensed school of cosmetology;
- (e) Is licensed as an aesthetician pursuant to this chapter; and
- (f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~manicuring~~ **nail technology** any person who has applied to the Board in proper form, paid the fee and:

- (a) Is at least 18 years of age;
- (b) Is of good moral character;
- (c) Has successfully completed the 12th grade in school or its equivalent;
- (d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;
- (e) Is licensed as a ~~manicurist~~ **nail technologist** pursuant to this chapter; and
- (f) Has practiced as a full-time licensed ~~manicurist~~ **nail technologist** or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~manicuring~~ **nail technology** shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~manicuring~~ **nail technology** who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~manicuring~~ **nail technology** who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

- (a) Is at least 18 years of age;
- (b) Is of good moral character;
- (c) Has successfully completed the 12th grade in school or its equivalent;
- (d) Has received a minimum of 500 hours of training as an instructor or ~~[250 hours of training]~~ as a **licensed** provisional instructor in a licensed school of cosmetology;
- (e) Is licensed as a nail technologist pursuant to this chapter; and
- (f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~manicurist~~ **nail technologist** any person who has made application to the Board in proper form, paid the fee ~~[-]~~ and who, before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed ~~manicurist~~ **nail technologist** for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~[-]~~ and who, before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least ~~500~~ **600** hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
  2. Is of good moral character;
  3. Has successfully completed the 10th grade in school or its equivalent;
- and

4. Has received a minimum of ~~{600}~~ **900** hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is ~~{a resident of a county whose population is less than 50,000;~~

~~{b) The person is}~~ required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and

~~{(c)}~~ **(b)** The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~{in such a county.}~~ **60 miles or more from a licensed school of cosmetology.**

2. ***The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.***

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of \$100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

~~{3.}~~ **4.** A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than \$75 and not more than \$200.

(b) For examination as an electrologist, not less than \$75 and not more than \$200.

(c) For examination as a hair designer, not less than \$75 and not more than \$200.

(d) For examination as a ~~{manicurist.}~~ **nail technologist**, not less than \$75 and not more than \$200.

(e) For examination as an aesthetician, not less than \$75 and not more than \$200.

(f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~manicuring,~~ **nail technology**, not less than \$75 and not more than \$200.

➡ The fee for each reexamination is not less than \$75 and not more than \$200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is \$75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~manicuring,~~ **nail technology**, cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;

2. Written or oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~manicurist~~ **nail technologist** may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~manicurist~~ **nail technologist**, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~manicurist,~~ **nail technologist**, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~manicurists,~~ **nail technologists**, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) For instructors, not less than \$60 and not more than \$100.

(c) For cosmetological establishments, not less than \$100 and not more than \$200.

(d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~manicurist,~~ **nail technologist**, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

**Sec. 24.5. NRS 644.325 is hereby amended to read as follows:**

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) For instructors, not less than \$60 and not more than \$100.

(c) For cosmetological establishments, not less than \$100 and not more than \$200.

(d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

**5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.**

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has

retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~manicurists,~~ **nail technologists**, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

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

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

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

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

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~manicurist,~~ **nail technologist**, electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:



644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.
2. A student enrolled as a hair designer must receive at least 300 hours.
3. A student enrolled as a ~~manicurist~~ **nail technologist** must receive at least 100 hours.
4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.
5. A student enrolled as an aesthetician must receive at least ~~120~~ **150** hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~manicurist~~ **nail technologist**, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to 30, inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

**3. Section 24.5 of this act becomes effective on January 1, 2011.**

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 202.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 287.

The following Senate amendment was read:

Amendment No. 696.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 4** of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, 24 and 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

**Section 25** of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

**Sections 5-22 and 26** of this bill provide for the registration and regulation of appraisal management companies.

**Section 23** of this bill revises the requirements for continuing education for appraisers.

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

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

**11. Any violation of section 4 of this act.**

**Sec. 2.** NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 ~~[-]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~{(v)}~~ (v) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than

\$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ (k) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. ***1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.***

***2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:***

***(a) Consider additional appropriate property information;***

***(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or***

***(c) Correct errors in his appraisal.***

Sec. 5. ***"Appraisal firm" means a person, limited-liability company, partnership, association or corporation ~~which~~;***

1. Which, for compensation, prepares and communicates appraisals ~~for~~  
~~;~~

2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and

3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. 1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:

~~1-1~~ (a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

~~2-1~~ (b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

~~3-1~~ (c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

~~4-1~~ (d) Otherwise serves as a third-party broker of appraisal services.  
~~5-1~~

2. The term does not include ~~any~~ :

(a) An appraisal firm ~~for~~ ;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. ~~1-1. There is hereby created the Account for Appraisal Management Companies in the State General Fund. The Account must be administered by the Administrator.~~

~~2-1. Except as otherwise provided in sections 7 to 21, inclusive, of this act, all money received by the Commission or the Division pursuant to sections 7 to 21, inclusive, of this act must be:~~

~~(a) Deposited in the Account;~~

~~(b) Accounted for separately; and~~

~~(c) Used only to administer the provisions of sections 7 to 21, inclusive, of this act.~~

~~2-1~~ *If the Commission imposes a fine or a penalty ~~for~~ or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.*

Sec. 8. *Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.*

Sec. 9. *The provisions of sections 7 to 21, inclusive, of this act do not apply to:*

1. *A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or*

2. *An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.*

Sec. 10. 1. *A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:*

(a) *State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;*

(b) *State the name under which the applicant will conduct business as an appraisal management company;*

(c) *List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;*

(d) *Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;*

(e) *Include a financial statement of the applicant; and*

(f) *Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission*



*authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

*2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:*

*(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.*

*(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:*

*(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.*

*(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.*

*(3) Has not made a false statement of material fact on his application.*

*(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.*

*(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.*

*(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.*

*(c) The applicant certifies that he:*

*(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.*

*(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.*

*(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.*

*(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.*

Sec. 11. 1. *In addition to any other requirements set forth in this chapter:*

*(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.*

*(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

*(b) A separate form prescribed by the Division.*

3. *A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

*(b) Indicates on the statement submitted pursuant to subsection 1 that 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 12. 1. *In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

*(b) A separate form prescribed by the Division.*

3. *A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

*(b) Indicates on the statement submitted pursuant to subsection 1 that 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 13. 1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.*

*2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.*

*3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.*

*4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:*

*(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and*

*(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.*

5. *Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.*

6. *If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.*

Sec. 14. *A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:*

1. *An application for renewal;*
2. *The fee required to renew the registration pursuant to section 15 of this act; and*
3. *All information required to complete the renewal.*

Sec. 15. *A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:*

1. *To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than \$2,500 for the principal office and not more than \$100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.*

2. *To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than \$500 for the principal office and not more than \$100 for each branch office.*

Sec. 16. 1. *If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.*

2. *The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:*

- (a) *A definition for the term "qualified employee";*
- (b) *Any duties of a qualified employee; and*
- (c) *Any requirements regarding a qualified employee.*

Sec. 17. 1. *It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:*

- (a) *Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;*
- (b) *Withholding or threatening to withhold future business for an independent appraiser;*
- (c) *Terminating an agreement with an independent contractor without prior written notice;*

*(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;*

*(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;*

*(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;*

*(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;*

*(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;*

*(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:*

*(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or*

*(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;*

*(j) Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;*

*(k) Accepting a fee for performing appraisal management services if the fee is contingent on:*

*(1) An appraisal report having a predetermined analysis, opinion or conclusion;*

*(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or*

*(3) The consequences resulting from an appraisal assignment; or*

*(l) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.*

*2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.*

*Sec. 18. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent*

*contractor, including, without limitation, removing the signature of the appraiser.*

*Sec. 19. 1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.*

*2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.*

*Sec. 20. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 21. 1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than \$10,000 if the applicant:*

*(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;*

*(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or*

*(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a*

*registration or during the course of the investigation of the application for a registration.*

*2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than \$10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:*

*(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;*

*(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;*

*(c) Has made a material representation in connection with any transaction governed by this chapter;*

*(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;*

*(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;*

*(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or*

*(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.*

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, *and sections 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status, ~~[-~~

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,] not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status. [- not to exceed 60 hours of instruction.]~~

↪ ***The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.***

2. As used in this section, an “hour of instruction” means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

- (a) Unprofessional conduct;
- (b) Professional incompetence;
- (c) ***Any violation of section 4 of this act;***

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

~~[(d)]~~ (e) The suspension ~~for~~, revocation ***or voluntary surrender in lieu of other discipline*** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

- (a) Revoke or suspend his certificate, license or registration card.
- (b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.
- (c) Deny the renewal of his certificate, license or registration card.
- (d) Impose a fine of not more than \$10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

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



Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;
2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;
3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;
4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;
5. ~~Enters~~ **Prepares or provides or enters** into a contract to prepare **or provide** an appraisal ~~by which~~ **if** his compensation is based partially or entirely on, **or is otherwise affected by**, the amount of the appraised value of the real estate;
6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or
7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license, **registration** or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license, **registration** or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

- (a) The severity of the violation and the degree of any harm that the violation caused to other persons;
- (b) The nature and amount of any gain or economic benefit that the person derived from the violation;
- (c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 ~~£~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~(p)~~ (q) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

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

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 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.

4. Section 12 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.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 696 to Assembly Bill No. 287.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 911.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

**Section 4** of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, 24 and 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

**Section 25** of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

**Sections 5-22 and 26** of this bill provide for the registration and regulation of appraisal management companies.

**Section 23** of this bill revises the requirements for continuing education for appraisers.

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

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

**11. Any violation of section 4 of this act.**

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the

Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 ~~if~~ if the applicant:

- (a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;
- (b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or
- (c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

- (a) Is insolvent;
- (b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;
- (c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;
- (d) Is in such financial condition that he cannot continue in business with safety to his customers;
- (e) Has made a material misrepresentation in connection with any transaction governed by this chapter;
- (f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;
- (g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;
- (h) Has failed to account to persons interested for all money received for a trust account;
- (i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~{(u)}~~ (v) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~{(j)}~~ (k) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 4 to 21, inclusive, of this act.~~ ~~new section to read as follows:~~

Sec. 4. ***1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.***

***2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:***

***(a) Consider additional appropriate property information;***

***(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or***

***(c) Correct errors in his appraisal.***

Sec. 5. ***"Appraisal firm" means a person, limited-liability company, partnership, association or corporation:***

***1. Which, for compensation, prepares and communicates appraisals;***

***2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and***



3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. 1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:

(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

(d) Otherwise serves as a third-party broker of appraisal services.

2. The term does not include:

(a) An appraisal firm;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 8. Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.

Sec. 9. *The provisions of sections 7 to 21, inclusive, of this act do not apply to:*

1. *A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or*

2. *An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.*

Sec. 10. 1. *A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:*

(a) *State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;*

(b) *State the name under which the applicant will conduct business as an appraisal management company;*

(c) *List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and*

~~(d) Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;~~

~~(e) Include a financial statement of the applicant; and~~

~~(f) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

2. *Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:*

(a) *The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.*

(b) *The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:*

(1) *Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays*

*competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.*

*(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.*

*(3) Has not made a false statement of material fact on his application.*

*(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.*

*(5) Has not had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.*

*(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.*

*(c) The applicant certifies that he:*

*(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.*

*(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.*

*(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.*

*(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.*

*Sec. 11. 1. In addition to any other requirements set forth in this chapter:*

*(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.*

*(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

*(b) A separate form prescribed by the Division.*

*3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

*(b) Indicates on the statement submitted pursuant to subsection 1 that 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 12. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

*(b) A separate form prescribed by the Division.*

*3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

*(b) Indicates on the statement submitted pursuant to subsection 1 that 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 Division shall advise the applicant to contact the district attorney or other public agency enforcing*

*the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 13. 1. *An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.*

2. *A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.*

3. *If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.*

4. *Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:*

*(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and*

*(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.*

5. *Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.*

6. *If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.*

Sec. 14. *A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:*

1. *An application for renewal;*

2. *The fee required to renew the registration pursuant to section 15 of this act; and*

3. *All information required to complete the renewal.*

Sec. 15. *A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:*

1. *To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than \$2,500 for the principal office and not more than \$100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.*

2. *To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than \$500 for the principal office and not more than \$100 for each branch office.*

Sec. 16. 1. *If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.*

2. *The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:*

(a) *A definition for the term "qualified employee";*

(b) *Any duties of a qualified employee; and*

(c) *Any requirements regarding a qualified employee.*

Sec. 17. 1. *It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:*

(a) *Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;*

(b) *Withholding or threatening to withhold future business for an independent appraiser;*

(c) *Terminating an agreement with an independent contractor without prior written notice;*

(d) *Directly or indirectly promising future business for or increased compensation to an independent contractor;*

(e) *Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;*

(f) *Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;*

(g) *Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be*

*loaned to a borrower, other than a copy of the sales contract for purchase transactions;*

*(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;*

*(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:*

*(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or*

*(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;*

~~*(j) [Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards]*~~

~~*(k)*~~ *Accepting a fee for performing appraisal management services if the fee is contingent on:*

*(1) An appraisal report having a predetermined analysis, opinion or conclusion;*

*(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or*

*(3) The consequences resulting from an appraisal assignment; or*

~~*(l)*~~ *(k) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.*

*2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.*

*Sec. 18. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.*

*Sec. 19. 1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.*

*2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny*

*renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.*

*Sec. 20. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 21. 1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than \$10,000 if the applicant:*

*(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;*

*(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or*

*(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.*

*2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than \$10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:*

*(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;*

*(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;*



(c) *Has made a material representation in connection with any transaction governed by this chapter;*

(d) *Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;*

(e) *Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;*

(f) *Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or*

(g) *Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.*

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, *and sections 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status, [-

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,] not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status . [-not to exceed 60 hours of instruction.]~~

↪ *The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.*

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

- (a) Unprofessional conduct;
- (b) Professional incompetence;
- (c) **Any violation of section 4 of this act;**
- (d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and
- ~~{{(d)}}~~ (e) The suspension ~~{or}~~, revocation **or voluntary surrender in lieu of other discipline** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

- (a) Revoke or suspend his certificate, license or registration card.
- (b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.
- (c) Deny the renewal of his certificate, license or registration card.
- (d) Impose a fine of not more than \$10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

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

Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insignia indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~Enters~~ *Prepares or provides or enters* into a contract to prepare *or provide* an appraisal ~~by which~~ *if* his compensation is based partially or entirely on, *or is otherwise affected by*, the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license, *registration* or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license, *registration* or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 ~~or~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ (q) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

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

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 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.

4. Section 12 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.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 911 to Assembly Bill No. 287.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 314.

The following Senate amendment was read:

Amendment No. 765.

AN ACT relating to dentistry; authorizing the Board of Dental Examiners of Nevada to issue a limited license to supervise certain courses of continuing education involving live patients; authorizing students to participate in such courses of continuing education under certain circumstances; **authorizing the Board to issue a specialist's license to a person who has completed the educational requirements for certification in a specialty under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill allows a person who has received a degree in dentistry from an accredited program to receive a limited license to supervise certain courses of continuing education involving live patients. A limited license issued under **section 1** expires 1 year after being issued and may be renewed annually. **Section 1** also: (1) authorizes the Board of Dental Examiners of Nevada to charge a fee for the issuance or renewal of the limited license; (2) authorizes the Board to suspend or revoke the limited license under certain circumstances; and (3) imposes a duty upon the holder of the limited license to report certain events to the Board.

**Section 2** of this bill provides that NRS 631.215 does not prevent a dentist who is licensed in another state or country from participating in a course of postgraduate continuing education in dentistry supervised by the holder of a limited license issued pursuant to **section 1** under certain circumstances.

**Existing law authorizes the Board to issue a specialist's license to a person without requiring the person to take the clinical examination required pursuant to NRS 631.240 if the person presents a current certification as a diplomate from a certifying board approved by the Commission on Dental Accreditation of the American Dental Association and meets certain other qualifications. (NRS 631.255) Section 3 of this bill expands the authorization to include issuing a specialist's license to a person who has completed the educational requirements specified for qualification in a specialty area by a certifying board and who is eligible to be certified, so long as the person submits to the Board his certificate as a diplomate within 6 years after he is issued the specialist's license and maintains the certification while licensed as a specialist in this State.**

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300, issue a limited license to a person to supervise courses of continuing education involving live patients at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry if the person has received a degree from a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association or its successor.*

*2. A limited license issued pursuant to this section expires 1 year after the date of its issuance and may be renewed annually upon submission of proof acceptable to the Board of compliance with subsection 1 and payment of any fee required pursuant to subsection 3.*

*3. The Board may impose a fee of not more than \$100 for the issuance and each renewal of a limited license issued pursuant to this section.*

*4. A limited license issued pursuant to this section may be suspended or revoked by the Board if the holder of the limited license:*

*(a) Has had his license to practice dentistry suspended, revoked or placed on probation in another state, territory or possession of the United States, the District of Columbia or a foreign country;*

*(b) Has been convicted of a felony or misdemeanor involving moral turpitude; or*

*(c) Has a documented history of substance abuse.*

*5. A holder of a limited license issued pursuant to this section shall notify the Board in writing by certified mail not later than 30 days after:*

*(a) The death of a patient being treated by a dentist under the supervision of the holder of a limited license;*

*(b) Any incident which:*

*(1) Results in the hospitalization of or a permanent physical or mental injury to a patient being treated by a dentist under the supervision of the holder of a limited license; and*

*(2) Occurs while the dentist is treating the patient under the supervision of the holder of a limited license; or*

*(c) Any event or circumstance described in subsection 4.*

Sec. 2. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

*(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;*

*(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;*

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.



(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

*(f) Prevents a person who is actively licensed as a dentist in another jurisdiction from treating a patient if:*

*(1) The patient has previously been treated by the dentist in the jurisdiction in which the dentist is licensed;*

*(2) The dentist treats the patient only during a course of continuing education involving live patients which:*

*(I) Is conducted at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry; and*

*(II) Meets all applicable requirements for approval as a course of continuing education; and*

*(3) The dentist treats the patient only under the supervision of a person licensed pursuant to section 1 of this act.*

**Sec. 3. NRS 631.255 is hereby amended to read as follows:**

631.255 1. The Board may, without a clinical examination required by NRS 631.240, issue a specialist's license to a person who:

(a) Presents a current certification as a diplomate from a certifying board approved by the Commission on Dental Accreditation of the American Dental Association; or

(b) Has completed the educational requirements specified for certification in a specialty area by a certifying board approved by the Commission on Dental Accreditation of the American Dental Association and is recognized by the certifying board as being eligible for that certification. A person who is licensed as a specialist pursuant to the provisions of this paragraph:

(1) Shall submit to the Board his certificate as a diplomate from the certifying board within 6 years after licensure as a specialist; and

(2) Must maintain certification as a diplomate of the certifying board during the period in which the person is licensed as a specialist pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, a person applying for a specialist's license:

(a) Must hold an active license to practice dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia ~~or~~

~~(c) Is~~, or pursuant to the laws of this State, another state or territory of the United States, or the District of Columbia, if the person is applying pursuant to paragraph (b) of subsection 1;

(b) Must be a specialist as identified by the Board;

~~(d) Pays~~

(c) Shall pay the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;

~~[(e) Submits]~~

**(d) Must submit** all information required to complete an application for a license; and

~~[(f) Satisfies]~~

**(e) Must satisfy** the requirements of NRS 631.230.

~~[(2) 3.]~~ **3.** The Board shall not issue a specialist's license to a person:

- (a) Whose license to practice dentistry has been revoked or suspended;
- (b) Who has been refused a license to practice dentistry; or
- (c) Who is involved in or has pending a disciplinary action concerning his license to practice dentistry,

↪ in this State, another state or territory of the United States, or the District of Columbia.

~~[(3) 4.]~~ **4.** The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

~~[(4) 5.]~~ **5.** A person to whom a specialist's license is issued pursuant to this section shall limit his practice to the specialty.

~~[(5) 6.]~~ **6.** The Board may revoke a specialist's license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

~~[(Sec. 3) 3.]~~ **Sec. 4.** NRS 631.330 is hereby amended to read as follows:

631.330 1. Licenses issued pursuant to NRS 631.271 and 631.275 ***and section 1 of this act*** must be renewed annually. All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 and 631.275 ~~[(3) and section 1 of this act:~~

(a) Each holder of a license to practice dentistry or dental hygiene must, upon:

(1) Payment of the required fee;

(2) Submission of proof of completion of the required continuing education; and

(3) Submission of all information required to complete the renewal,

↪ be granted a renewal certificate which will authorize continuation of the practice for 2 years.

(b) A licensee must comply with the provisions of this subsection and subsection 1 on or before June 30. Failure to comply with those provisions by June 30 every 2 years automatically suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and compliance with the requirements of this subsection.

3. If a license suspended pursuant to this section is not reinstated within 12 months after suspension, it is automatically revoked.

~~[(Sec. 4) 4.]~~ **Sec. 5.** NRS 631.345 is hereby amended to read as follows:

631.345 1. ~~[(The) Except as otherwise provided in section 1 of this act,~~ ***the*** Board shall by regulation establish fees for the performance of the duties imposed upon it by this chapter which must not exceed the following amounts:

Application fee for an initial license to practice dentistry .....	\$1,500
Application fee for an initial license to practice dental hygiene .....	750
Application fee for a specialist's license to practice dentistry .....	300
Application fee for a limited license or restricted license to practice dentistry or dental hygiene.....	300
Application and examination fee for a permit to administer general anesthesia, conscious sedation or deep sedation.....	750
Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, conscious sedation or deep sedation .....	500
Biennial renewal fee for a permit to administer general anesthesia, conscious sedation or deep sedation.....	600
Fee for the inspection of a facility required by the Board to renew a permit to administer general anesthesia, conscious sedation or deep sedation .....	350
Biennial license renewal fee for a general license, specialist's license, temporary license or restricted geographical license to practice dentistry .....	1,000
Annual license renewal fee for a limited license or restricted license to practice dentistry.....	300
Biennial license renewal fee for a general license, temporary license or restricted geographical license to practice dental hygiene.....	600
Annual license renewal fee for a limited license to practice dental hygiene .....	300
Biennial license renewal fee for an inactive dentist.....	400
Biennial license renewal fee for a dentist who is retired or has a disability .....	100
Biennial license renewal fee for an inactive dental hygienist.....	\$200
Biennial license renewal fee for a dental hygienist who is retired or has a disability .....	100
Reinstatement fee for a suspended license to practice dentistry or dental hygiene.....	500
Reinstatement fee for a revoked license to practice dentistry or dental hygiene.....	500
Reinstatement fee to return a dentist or dental hygienist who is inactive, retired or has a disability to active status.....	500
Fee for the certification of a license.....	50

2. Except as otherwise provided in this subsection, the Board shall charge a fee to review a course of continuing education for accreditation. The fee must not exceed \$150 per credit hour of the proposed course. The Board shall not charge a nonprofit organization or an agency of the State or of a political subdivision of the State a fee to review a course of continuing education.

3. All fees prescribed in this section are payable in advance and must not be refunded.

~~{Sec. 5.}~~ **Sec. 6.** NRS 631.350 is hereby amended to read as follows:

631.350 1. Except as otherwise provided in NRS 631.271 and 631.347, **and section 1 of this act**, the Board may:

- (a) Refuse to issue a license to any person;
- (b) Revoke or suspend the license or renewal certificate issued by it to any person;
- (c) Fine a person it has licensed;
- (d) Place a person on probation for a specified period on any conditions the Board may order;
- (e) Issue a public reprimand to a person;
- (f) Limit a person's practice to certain branches of dentistry;
- (g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;
- (h) Require that a person's practice be supervised;
- (i) Require a person to perform community service without compensation;
- (j) Require a person to take a physical or mental examination or an examination of his competence;
- (k) Require a person to fulfill certain training or educational requirements;
- (l) Require a person to reimburse a patient; or
- (m) Any combination thereof,

➔ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

- (a) Engaging in the illegal practice of dentistry or dental hygiene;
- (b) Engaging in unprofessional conduct; or
- (c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

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

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 314.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 378.

The following Senate amendment was read:

Amendment No. 679.

AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which intoxicating liquor may be imported and sold in this State. (Chapter 369 of NRS) **Section 1** of this bill provides that a wholesale dealer of liquor who is a designated importer for a supplier may receive original packages of liquor from an affiliate of the wholesale dealer located outside this State if certain conditions are met. **Section 1** also provides that such an affiliate is not a supplier when the affiliate ships liquor to the wholesale dealer.

Existing law sets forth various requirements concerning a franchise between a supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS 597.120-597.180) **Section 3** of this bill prohibits a supplier from unreasonably withholding or delaying its approval of certain sales, assignments or transfers of an interest in a wholesaler's assets or of the substitution of a person under a franchise. **Section 3** provides for the liability of the supplier to a wholesaler if the supplier unreasonably withholds its consent in violation of **section 3**. **Section 4** prohibits a supplier from taking various other actions against a wholesaler.

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

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a supplier designates a wholesale dealer as the designated importer of a brand of liquor pursuant to NRS 369.386, the wholesale dealer may, without any additional designation or further consent from the supplier, receive original packages of that brand of liquor from an affiliate of the wholesale dealer located outside of this State if:*

*(a) The affiliate operates a warehouse outside this State from which the affiliate ships the liquor;*

*(b) The affiliate is licensed as a wholesaler for the liquor in the state from which the affiliate ships the liquor;*

*(c) The wholesale dealer registers the name and address of the affiliate's warehouse with the Department on a form prescribed by the Department; and*

(d) As soon as practicable after receiving the liquor, the wholesale dealer reports the receipt of the liquor to the Department and pays all applicable excise taxes thereon pursuant to NRS 369.330.

2. A wholesale dealer may not receive more than 15 percent of the total amount of any brand of liquor imported into this State during a calendar year pursuant to this section. Any liquor received by the wholesale dealer from an affiliate pursuant to this section must be purchased in accordance with the terms and conditions of the wholesaler's franchise with the supplier.

3. A transfer of liquor pursuant to this section is not a purchase or sale of that liquor.

~~3.~~ 4. An affiliate of a wholesale dealer located outside this State who ships liquor pursuant to this section is not engaged in business as a supplier for purposes of this chapter and chapter 597 of NRS. The provisions of this subsection do not authorize a wholesale dealer to receive liquor from an affiliate who is a supplier, as defined in NRS 597.140, or the holder of a certificate of compliance issued pursuant to NRS 369.430.

~~4.~~ 5. As used in this section ~~the~~ "affiliate" :

(a) "Affiliate" means a wholesale dealer or a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a wholesale dealer. As used in this ~~subsection,~~ paragraph, "control" means not less than 50 percent control, directly or indirectly, through one or more intermediaries.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

Sec. 2. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. A supplier shall not unreasonably withhold or delay his approval of any assignment, sale or transfer of the stock of a wholesaler or of all or any portion of a wholesaler's assets, a wholesaler's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of a franchise, whenever a person to be substituted under the terms of the franchise meets reasonable standards imposed upon the wholesaler and any other wholesaler of the supplier of the same general class, after consideration of the size and location of the marketing area of the wholesaler.

2. Upon the death of a partner of a partnership that operates the business of a wholesaler, a supplier shall not unreasonably withhold or delay his approval of maintaining the franchise between the supplier and each surviving partner.

3. Upon the death of any owner, controlling shareholder or operator of a wholesaler, a supplier shall not deny approval of any transfer of ownership to a surviving spouse, child or grandchild of the owner who has reached the age of majority at the time of death, controlling shareholder or operator. Any subsequent transfer of ownership by the spouse, child,

*grandchild, controlling shareholder or operator is subject to the provisions of subsection 1.*

*4. In addition to the provisions of NRS 597.170, a supplier who unreasonably delays or withholds his consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a wholesaler is liable to the wholesaler for the laid-in costs of inventory of each affected brand of liquor and any diminution in the fair market value of the business of the wholesaler in relation to each affected brand. The damages recoverable pursuant to this section include, without limitation, all reasonable costs of bringing the action and attorney's fees. For the purpose of this subsection, the fair market value of a business of a wholesaler includes, without limitation, the good will of the business and its value as a going concern, if any.*

*5. The provisions of this section may not be modified by agreement. Any provision in an agreement is void if the provision includes such a modification.*

Sec. 4. A supplier shall not:

*1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;*

*2. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;*

*3. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;*

*4. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;*

*5. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; or*

*6. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:*

*(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or*

*(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.*

Sec. 5. NRS 597.120 is hereby amended to read as follows:

597.120 As used in NRS 597.120 to 597.180, inclusive, *and sections 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 597.125 to 597.150, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 597.170 is hereby amended to read as follows:

597.170 1. Any wholesaler may bring an action in a court of competent jurisdiction against a supplier for violation of NRS 597.120 to 597.180, inclusive, and **sections 3 and 4 of this act and** may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as are authorized under NRS 18.110.

2. The remedies provided in NRS 597.120 to 597.180, inclusive, **and sections 3 and 4 of this act** are independent of and supplemental to any other remedy or remedies available to the wholesaler in law or equity.

Sec. 7. NRS 597.180 is hereby amended to read as follows:

597.180 In any action brought by a wholesaler against a supplier for termination or noncontinuance of, or causing to resign from a franchise in violation of NRS 597.120 to 597.180, inclusive, **and sections 3 and 4 of this act**, the supplier has the burden of establishing that he acted for good cause and that the wholesaler did not act in good faith. It is a complete defense for the supplier to prove that the termination, noncontinuance or causing to resign was done in good faith and for good cause.

Sec. 8. NRS 597.262 is hereby amended to read as follows:

597.262 1. Except as otherwise provided in this section and NRS 228.380, the Attorney General has primary jurisdiction to enforce the provisions of NRS 597.120 to 597.260, inclusive, and **sections 3 and 4 of this act and** shall cause appropriate legal action to be taken to enforce those provisions.

2. The Attorney General has concurrent jurisdiction with the district attorneys of this State to enforce the provisions of NRS 597.225 and 597.245.

3. This section does not prohibit:

(a) A wholesaler from bringing an action against a supplier pursuant to NRS 597.170 ~~or~~ **or section 3 of this act**.

(b) A customer, supplier or wholesaler from bringing an action against a retailer pursuant to NRS 597.260.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 679 to Assembly Bill No. 378.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 888.

AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which intoxicating liquor may be imported and sold in this State. (Chapter 369 of NRS) **Section 1** of



this bill provides that a wholesale dealer of liquor who is a designated importer for a supplier may receive original packages of liquor from an affiliate of the wholesale dealer located outside this State if certain conditions are met. **Section 1** also provides that such an affiliate is not a supplier when the affiliate ships liquor to the wholesale dealer.

Existing law sets forth various requirements concerning a franchise between a supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS 597.120-597.180) **Section 3** of this bill prohibits a supplier from unreasonably withholding or delaying its approval of certain sales, assignments or transfers of an interest in a wholesaler's assets or of the substitution of a person under a franchise. **Section 3** provides for the liability of the supplier to a wholesaler if the supplier unreasonably withholds its consent in violation of **section 3**. **Section 4** prohibits a supplier from taking various other actions against a wholesaler.

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

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a supplier designates a wholesale dealer as the designated importer of a brand of liquor pursuant to NRS 369.386, the wholesale dealer may, without any additional designation or further consent from the supplier, receive original packages of that brand of liquor from an affiliate of the wholesale dealer located outside of this State if:*

*(a) The affiliate operates a warehouse outside this State from which the affiliate ships the liquor;*

*(b) The affiliate is licensed as a wholesaler for the liquor in the state from which the affiliate ships the liquor;*

*(c) The wholesale dealer registers the name and address of the affiliate's warehouse with the Department on a form prescribed by the Department; ~~and~~*

*(d) Within 10 days after the affiliate ships the liquor to the wholesale dealer, the affiliate submits to the Department, with documentation, a report stating:*

*(1) The name and address of the wholesale dealer to whom the liquor was shipped;*

*(2) The name and address of the person from whom the affiliate purchased the liquor;*

*(3) The brand of liquor shipped;*

*(4) The quantity of liquor shipped in gallons, rounded to the nearest one-hundredth; and*

*(5) The percentage of alcohol by volume; and*

*(e) As soon as practicable after receiving the liquor, the wholesale dealer reports the receipt of the liquor to the Department. ~~and pays~~ The wholesale dealer shall pay all applicable excise taxes ~~thereon pursuant to~~*

~~NRS 369.330-1~~ imposed by this chapter on that liquor on or before the 20th day of the month following the month in which the liquor was received by the wholesale dealer.

2. A wholesale dealer may not receive more than 15 percent of the total amount of any brand of liquor imported into this State during a calendar year pursuant to this section. Any liquor received by the wholesale dealer from an affiliate pursuant to this section must be purchased in accordance with the terms and conditions of the wholesaler's franchise with the supplier.

3. A transfer of liquor pursuant to this section is not a purchase or sale of that liquor.

4. An affiliate of a wholesale dealer located outside this State who ships liquor pursuant to this section is not engaged in business as a supplier for the purposes of this chapter and chapter 597 of NRS. The provisions of this subsection do not authorize a wholesale dealer to receive liquor from an affiliate who is a supplier, as defined in NRS 597.140, or the holder of a certificate of compliance issued pursuant to NRS 369.430.

5. As used in this section:

(a) "Affiliate" means a wholesale dealer or a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a wholesale dealer. As used in this paragraph, "control" means not less than 50 percent control, directly or indirectly, through one or more intermediaries.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

Sec. 2. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. A supplier shall not unreasonably withhold or delay his approval of any assignment, sale or transfer of the stock of a wholesaler or of all or any portion of a wholesaler's assets, a wholesaler's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of a franchise, whenever a person to be substituted under the terms of the franchise meets reasonable standards imposed upon the wholesaler and any other wholesaler of the supplier of the same general class, after consideration of the size and location of the marketing area of the wholesaler.

2. Upon the death of a partner of a partnership that operates the business of a wholesaler, a supplier shall not unreasonably withhold or delay his approval of maintaining the franchise between the supplier and each surviving partner.

3. Upon the death of any owner, controlling shareholder or operator of a wholesaler, a supplier shall not deny approval of any transfer of ownership to a surviving spouse, child or grandchild of the owner who has reached the age of majority at the time of death, controlling shareholder or operator. Any subsequent transfer of ownership by the spouse, child,

*grandchild, controlling shareholder or operator is subject to the provisions of subsection 1.*

*4. In addition to the provisions of NRS 597.170, a supplier who unreasonably delays or withholds his consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a wholesaler is liable to the wholesaler for the laid-in costs of inventory of each affected brand of liquor and any diminution in the fair market value of the business of the wholesaler in relation to each affected brand. The damages recoverable pursuant to this section include, without limitation, all reasonable costs of bringing the action and attorney's fees. For the purpose of this subsection, the fair market value of a business of a wholesaler includes, without limitation, the good will of the business and its value as a going concern, if any.*

*5. The provisions of this section may not be modified by agreement. Any provision in an agreement is void if the provision includes such a modification.*

Sec. 4. A supplier shall not:

*1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;*

*2. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;*

*3. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;*

*4. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;*

*5. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; or*

*6. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:*

*(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or*

*(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.*

Sec. 5. NRS 597.120 is hereby amended to read as follows:

597.120 As used in NRS 597.120 to 597.180, inclusive, *and sections 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 597.125 to 597.150, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 597.170 is hereby amended to read as follows:

597.170 1. Any wholesaler may bring an action in a court of competent jurisdiction against a supplier for violation of NRS 597.120 to 597.180, inclusive, and **sections 3 and 4 of this act and** may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as are authorized under NRS 18.110.

2. The remedies provided in NRS 597.120 to 597.180, inclusive, **and sections 3 and 4 of this act** are independent of and supplemental to any other remedy or remedies available to the wholesaler in law or equity.

Sec. 7. NRS 597.180 is hereby amended to read as follows:

597.180 In any action brought by a wholesaler against a supplier for termination or noncontinuance of, or causing to resign from a franchise in violation of NRS 597.120 to 597.180, inclusive, **and sections 3 and 4 of this act**, the supplier has the burden of establishing that he acted for good cause and that the wholesaler did not act in good faith. It is a complete defense for the supplier to prove that the termination, noncontinuance or causing to resign was done in good faith and for good cause.

Sec. 8. NRS 597.262 is hereby amended to read as follows:

597.262 1. Except as otherwise provided in this section and NRS 228.380, the Attorney General has primary jurisdiction to enforce the provisions of NRS 597.120 to 597.260, inclusive, and **sections 3 and 4 of this act and** shall cause appropriate legal action to be taken to enforce those provisions.

2. The Attorney General has concurrent jurisdiction with the district attorneys of this State to enforce the provisions of NRS 597.225 and 597.245.

3. This section does not prohibit:

(a) A wholesaler from bringing an action against a supplier pursuant to NRS 597.170 ~~[-]~~ **or section 3 of this act.**

(b) A customer, supplier or wholesaler from bringing an action against a retailer pursuant to NRS 597.260.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 888 to Assembly Bill No. 378.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 454.

The following Senate amendment was read:

Amendment No. 763.

AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; ~~[revising certain provisions relating to an appeal from a judgment in an unlawful detainer action;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

**Section 5** of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)

~~f Existing law provides that an eviction may be initiated by filing an unlawful detainer action or by using the procedures for summary eviction. (NRS 40.215-40.425) Existing law also generally provides that a person may obtain a stay of execution upon an appeal from an order entered in an action: (1) for summary eviction by filing with the trial court a bond in the amount of \$250; and (2) for unlawful detainer if the person is a defendant and, within 10 days after the judgment is rendered, he files with the court or justice a bond with two or more sureties in the amount determined by the court or justice but that is not less than twice the amount of the judgment and costs. (NRS 40.380, 40.385) Existing law further provides that the summary eviction process may not be used against certain tenants in mobile home parks. (NRS 40.253) Section 6 of this bill changes the amount of the bond that certain defendants who are tenants in a mobile home park are required to file to obtain a stay of execution upon an appeal from an order entered in an action for unlawful detainer from twice the amount of the judgment and costs to \$250. Section 6 also: (1) requires certain tenants in a mobile home park who retain possession of the premises that are the subject of the appeal to pay the landlord the rent in the amount provided in the underlying contract as it becomes due; and (2) authorizes, under certain circumstances, the court or justice to vacate the stay of execution if such a tenant fails to pay the rent. (NRS 40.380)]~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~for~~ **or service of a notice pursuant to subsection 1 of NRS 118B.190**, the rental agreement described in NRS 118B.190 may not be terminated except ~~for~~ **on one or more of the following grounds:**

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a

reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

- (1) Discharge of a weapon;
- (2) Prostitution;
- (3) Illegal drug manufacture or use;
- (4) Child molestation or abuse;
- (5) Elder molestation or abuse;
- (6) Property damage as a result of vandalism; and
- (7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

- (1) Are set forth in the lease signed by the tenant; and
- (2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. ~~NRS 40.380 is hereby amended to read as follows:~~

~~40.380 1. Either party may, within 10 days, appeal from the judgment rendered. [But] *Except as otherwise provided in subsection 2*, an appeal by the defendant shall not stay the execution of the judgment, unless, within the 10 days, he [shall execute and file] *executes and files* with the court or justice his undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which [shall] *must* not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case [shall] *must* be stayed.~~

~~2. *If the appeal is by a defendant who is a tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area*~~

~~of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the total amount of the sureties required to be executed and filed with the court or justice pursuant to subsection 1 is \$250 except as otherwise provided in this subsection. In an action concerning a lease of a such a lot in a mobile home park for which the monthly rent exceeds \$1,000, the court or justice may, upon its or his own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.~~

~~3. A tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215 who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If such a tenant fails to pay rent within 10 days after the date on which the rent is due, the court or justice shall vacate the stay of execution upon proper motion by the landlord if the court or justice determines that the tenant has failed to pay the required rent for the applicable period. Any payment made by a tenant pursuant to this subsection must first be credited against the rent required for the current month.] (Deleted by amendment.)~~

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 454.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 535.

The following Senate amendment was read:

Amendment No. 707.

AN ACT relating to the Legislature; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill provides that reports made to the Legislature or the Legislative Counsel Bureau may be submitted electronically. **Sections 2 and 3** of this bill allow a Legislator to purchase and use letterhead and business cards after leaving office if the letterhead or business card clearly identifies the person as a former Legislator or retired Legislator. **Sections 4, 5, 7, 8, 12, 13 and 14** of this bill revise certain statutes concerning a Legislator who does not seek reelection or who is defeated for reelection. Such a Legislator continues to serve on legislative committees after the general election until the next regular or special session of the Legislature convenes. **Sections 9.5 and 10** of this bill revise the statutes concerning the membership of the

Legislative Commission and the Interim Finance Committee to provide that the membership of a Legislator who does not seek reelection or who is defeated for reelection terminates on the day after the general election. **Sections 5 and 6** of this bill expand the membership of the Legislative Committee on Public Lands and authorize the Legislative Commission to appoint alternate members. **Section 11** of this bill revises the description of the Administrative Division of the Legislative Counsel Bureau to reflect its duties more accurately. **Sections 11.2, 11.4 and 11.6 of this bill expand the authority of the Legislative Counsel to represent the Legislature's official interests in various actions and proceedings. Section 13.5 of this bill repeals the prospective expiration of provisions that require the prefiling of measures proposed by certain nonlegislative requesters and that make various other changes relating to bill draft requests.**

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

*If a law or resolution requires or directs that a report be made to the Legislature, the Legislative Counsel Bureau, or any person or entity within the Legislature or the Legislative Counsel Bureau, submitting the report in electronic format satisfies the law or resolution.*

**Sec. 2.** NRS 218.048 is hereby amended to read as follows:

218.048 1. After he leaves office and a successor has been elected or appointed, it is unlawful for any Legislator to:

(a) Use any official stationery or business card acquired pursuant to NRS 218.225 ~~to~~ *unless the stationery or business card clearly identifies the person as a former Legislator or retired Legislator;*

(b) Maintain deliberately a listing in any directory, published after that date, which in any manner indicates that he is presently a Legislator; or

(c) Except as otherwise provided in a special act, use on his vehicle a special legislative license plate furnished pursuant to NRS 482.374.

2. Any person who violates any of the provisions of subsection 1 is guilty of a misdemeanor.

**Sec. 3.** NRS 218.225 is hereby amended to read as follows:

218.225 1. At each regular session of the Legislature, each Legislator is entitled to receive at the expense of the Legislative Fund:

(a) Not to exceed 2,000 letterheads, 8 1/2 inches x 11 inches, and 2,000 half size, or 4,000 of either variety;

(b) Not to exceed 2,000 No. 10 envelopes and 2,000 No. 6 3/4 envelopes, or 4,000 of either variety; and

(c) Not to exceed 2,000 business cards and 1,000 memorandum sheets, 500 each of the small and large type or 1,000 of either type.



2. Each female member of the Assembly is entitled to have the word “Assemblywoman” precede the inscription of her name on her official stationery and business cards.

3. All orders for the printing specified in subsection 1 must be placed by Legislators with the Director of the Legislative Counsel Bureau, who shall approve those claims which comply with the provisions of this section and shall pay the claims from the Legislative Fund.

4. A Legislator may purchase official stationery, cards and other material appropriate to his official duties in excess of that specified in subsection 1 at his own expense ~~[-]~~ **and may purchase stationery, cards or other material for use after he leaves office if the stationery, cards or other material clearly identifies the person as a former Legislator or retired Legislator.**

Sec. 4. NRS 218.5352 is hereby amended to read as follows:

218.5352 1. The Legislative Committee on Education, consisting of eight legislative members, is hereby created. The membership of the Committee consists of:

(a) Four members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.

(b) Four members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. After the initial selection, the Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve **after the general election** until the ~~[-]convening of the~~ next regular **or special** session of the Legislature ~~[-] convenes.~~

4. A vacancy on the Committee must be filled in the same manner as the original appointment.

Sec. 5. NRS 218.5363 is hereby amended to read as follows:

218.5363 1. There is hereby established a Legislative Committee on Public Lands consisting of ~~three~~ **four** members of the Senate, ~~three~~ **four** members of the Assembly and one elected officer representing the governing body of a local political subdivision, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are State Legislators must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall select a Chairman from one House of the Legislature and a Vice Chairman from the other. After the initial selection of a Chairman and a Vice Chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve *after the general election* until the ~~convening of the~~ next *regular or special* session of the Legislature ~~[-] convenes.~~

4. *The Legislative Commission may appoint alternates for members of the Committee.* Vacancies on the Committee must be filled in the same manner as original appointments. *The Chairman of the Committee may designate an alternate appointed by the Legislative Commission to serve in place of a regular member who is unable to attend a meeting. The Chairman shall appoint an alternate who is a member of the same House and political party as the regular member to serve in place of the regular member if one is available.*

Sec. 6. NRS 218.5365 is hereby amended to read as follows:

218.5365 1. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee. The Research Director of the Legislative Counsel Bureau or a person he has designated shall act as the nonvoting recording Secretary. The Committee shall prescribe regulations for its own management and government. ~~Four~~ *Five* members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

2. Except during a regular or special session of the Legislature, the members of the Committee who are State 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 session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee. Per diem allowances, compensation and travel expenses of the legislative members of the Committee must be paid from the Legislative Fund.

3. The member of the Committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his position for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee, to be paid by his local political subdivision.

Sec. 7. NRS 218.5382 is hereby amended to read as follows:

218.5382 1. If:

(a) The Legislature, by concurrent resolution, during a regular legislative session; or

(b) The Interim Finance Committee, by resolution, while the Legislature is not in regular session,

↪ determines that the performance of a fundamental review of the base budget of a particular agency is necessary, the Interim Finance Committee shall create a legislative committee for the fundamental review of the base budgets of state agencies. The Interim Finance Committee may create more than one such committee if the number of agencies designated for review warrants additional committees. If more than one such committee is created, the Interim Finance Committee shall determine which agencies are to be reviewed by the respective committees.

2. Each such committee must consist of an equal number of members of the Senate and the Assembly. The Interim Finance Committee shall appoint the members of a committee. At least a majority of the members of a committee must be members of the Interim Finance Committee. The Interim Finance Committee shall designate the chairman of a committee.

3. Any member of a committee who is not a candidate for reelection or who is defeated for reelection continues to serve *after the general election* until the next *regular or special* session of the Legislature ~~[is convened.]~~ *convenes*.

4. Vacancies on a committee must be filled in the same manner as original appointments.

5. A majority of the members appointed to a committee constitutes a quorum.

6. The Director of the Legislative Counsel Bureau shall assign employees of the Legislative Counsel Bureau to provide such technical, clerical and operational assistance to a committee as the functions and operations of the committee may require.

Sec. 8. NRS 218.53871 is hereby amended to read as follows:

218.53871 1. There is hereby created the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall elect a Chairman from one house of the Legislature and a Vice Chairman from the other house. Each Chairman and Vice Chairman holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve *after the general election* until the next *regular or special* session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 9. NRS 218.610 is hereby amended to read as follows:

218.610 As used in NRS 218.610 to 218.735, inclusive, **and section 1 of this act**, “agency of the State” includes all offices, departments, boards, commissions and institutions of the State.

Sec. 9.5. NRS 218.660 is hereby amended to read as follows:

218.660 1. There is hereby created in the Legislative Counsel Bureau a Legislative Commission consisting of 12 members.

2. At each regular session of the Legislature held in odd-numbered years, the Senate shall, by resolution, designate six Senators as regular members of the Legislative Commission and six Senators as alternates, and the Assembly shall, by resolution, designate six Assemblymen as regular members of the Legislative Commission and six Assemblymen as alternates.

3. The Legislature shall determine by joint rule at each regular session of the Legislature in odd-numbered years:

(a) The method of determining the majority party and the minority party regular and alternate membership on the Legislative Commission.

(b) The method of filling vacancies on the Legislative Commission.

(c) ~~{The terms of office of members.~~

~~{d)}~~ The method of selecting the Chairman.

~~{e)}~~ (d) The term of office of the Chairman.

**4. The members of the Legislative Commission serve until their successors are appointed by resolution as provided in this section, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and the vacancy must be filled as provided by the joint rule adopted pursuant to subsection 3.**

Sec. 10. NRS 218.6825 is hereby amended to read as follows:

218.6825 1. There is hereby created in the Legislative Counsel Bureau an Interim Finance Committee . **Except as otherwise provided in this section, the Interim Finance Committee is** composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance during the current or immediately preceding session of the Legislature. ~~{The}~~

**2. Except as otherwise provided in this subsection, the** immediate past Chairman of the Senate Standing Committee on Finance is the Chairman of the Interim Finance Committee for the period ending with the convening of each even-numbered regular session of the Legislature. The immediate past Chairman of the Assembly Standing Committee on Ways and Means is the Chairman of the Interim Finance Committee during the next legislative interim, and the chairmanship alternates between the houses of the Legislature according to this pattern.

~~{2-}~~ *The term of the Chairman of the Interim Finance Committee terminates if a new Chairman of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as the case may be, is designated for the next regular session of the Legislature, in which case that person so designated serves as the Chairman of the Committee until the convening of that regular session.*

3. If any regular member of the *Interim Finance* Committee informs the Secretary that he will be unable to attend a particular meeting, the Secretary shall notify the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, to appoint an alternate for that meeting from the same house and political party as the absent member.

~~{3-}~~ 4. *Except as otherwise provided in subsection 5, the term of a member of the Interim Finance Committee expires upon the convening of the next regular session of the Legislature unless the member is replaced by the appointing authority. If the Speaker designate of the Assembly or the Majority Leader designate of the Senate designates members of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as applicable, for the next ensuing regular session of the Legislature, the designated members become members of the Interim Finance Committee. A member may be reappointed.*

5. The membership of any member who does not become a candidate for reelection or who is defeated for reelection ~~{continues until the next session of the Legislature is convened.~~

~~4-}~~ *terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, shall appoint an alternate to fill the vacancy on the Interim Finance Committee. Except as otherwise provided in this subsection, each alternate serves on the Committee:*

(a) *If he is a member of the Assembly, until the Speaker designate of the Assembly designates the members of the Assembly Standing Committee on Ways and Means for the next ensuing regular session of the Legislature or appoints a different alternate.*

(b) *If he is a member of the Senate, until the Majority Leader designate of the Senate designates the members of the Senate Standing Committee on Finance for the next ensuing regular session of the Legislature or appoints a different alternate.*

6. The Director of the Legislative Counsel Bureau shall act as the Secretary of the Interim Finance Committee.

~~{5-}~~ 7. A majority of the members of the Assembly Standing Committee on Ways and Means and a majority of the members of the Senate Standing Committee on Finance, jointly, may call a meeting of the Interim Finance Committee if the Chairman does not do so.

~~{6-}~~ 8. In all matters requiring action by the Interim Finance Committee, the vote of the Assembly and Senate members must be taken separately. No

action may be taken unless it receives the affirmative vote of a majority of the Assembly members and a majority of the Senate members.

~~{7.}~~ **9.** Except during a regular or special session of the Legislature, each member of the Interim Finance Committee and appointed alternate is 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 for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in Committee work plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. All such compensation must be paid from the Contingency Fund in the State Treasury.

Sec. 11. NRS 218.6851 is hereby amended to read as follows:

218.6851 1. The Administrative Division consists of the Chief of the Division and such staff as he may require.

2. The Administrative Division is responsible for:

(a) Accounting ~~{;}~~ **and human resources;**

(b) **Audio and video services;**

(c) Communication equipment;

~~{(e)}~~ **(d)** Control of inventory;

~~{(d)}~~ **(e)** **Information technology services;**

(f) Janitorial services;

~~{(e)}~~ **(g)** Maintenance of buildings, grounds and vehicles;

~~{(f)}~~ **(h)** Purchasing;

~~{(g)}~~ **(i)** Security;

~~{(h)}~~ **(j)** Shipping and receiving;

~~{(i)}~~ **(k)** Utilities;

~~{(j)}~~ **and**

**(l)** Warehousing operations . ~~{;}~~

~~{(k)}~~ **Data processing; and**

~~{(l)}~~ **Reproduction of documents.**

3. The Legislative Commission may assign any other appropriate function to the Administrative Division.

**Sec. 11.2. NRS 218.697 is hereby amended to read as follows:**

218.697 1. When deemed necessary or advisable to protect the official interests of the Legislature **, one or more houses of the Legislature** or one or more ~~{Legislative committees,}~~ **agencies, members, officers or employees of the Legislature, the Legislative Counsel Bureau or the Legislative Department of State Government,** the Legislative Commission, or the Chairman of the Legislative Commission in cases where action is required before a meeting of the Legislative Commission is scheduled to be held, may direct the Legislative Counsel and his staff to appear in, commence, prosecute, defend or intervene in any action ~~{, suit, matter, cause}~~ or proceeding ~~{in}~~ **before** any court ~~{or,}~~ **agency or officer of** ~~{this State or of the United States,}~~ **this State or any other jurisdiction, or any political subdivision thereof. In any such action or proceeding, the Legislature, the**

houses of the Legislature and the agencies, members, officers and employees of the Legislature, the Legislative Counsel Bureau and the Legislative Department of State Government may not be assessed or held liable for:

(a) Any filing or other court fees; or

(b) The attorney's fees or other fees, costs or expenses of any other parties.

2. If a party to any action or proceeding before any court, agency or officer:

(a) Alleges that the Legislature, by its actions or failure to act, has violated the Constitution, treaties or laws of the United States or the Constitution or laws of this State; or

(b) Challenges, contests or raises as an issue, either in law or in equity, in whole or in part, or facially or as applied, the meaning, intent, purpose, scope, applicability, validity, enforceability or constitutionality of any law, resolution, initiative, referendum or other legislative or constitutional measure, including, without limitation, on grounds that the law, resolution, initiative, referendum or other legislative or constitutional measure is ambiguous, unclear, uncertain, imprecise, indefinite or vague, is preempted by federal law or is otherwise inapplicable, invalid, unenforceable or unconstitutional,

↪ the Legislature may elect to intervene in the action or proceeding by filing a motion or request to intervene in the form required by the rules, laws or regulations applicable to the action or proceeding. The motion or request to intervene must be accompanied by an appropriate pleading, brief or dispositive motion setting forth the Legislature's arguments, claims, objections or defenses, in law or fact, or by a motion or request to file such a pleading, brief or dispositive motion at a later time.

3. Notwithstanding any other law to the contrary, upon the filing of a motion or request to intervene pursuant to subsection 2, the Legislature has an unconditional right and standing to intervene in the action or proceeding and to present its arguments, claims, objections or defenses, in law or fact, whether or not the Legislature's interests are adequately represented by existing parties and whether or not the State or any agency, officer or employee of the State is an existing party. If the Legislature intervenes in the action or proceeding, the Legislature has all the rights of a party.

4. The provisions of this section do not make the Legislature a necessary or indispensable party to any action or proceeding unless the Legislature intervenes in the action or proceeding, and no party to any action or proceeding may name the Legislature as a party or move to join the Legislature as a party based on the provisions of this section.

~~{2.}~~ 5. The Legislative Commission may authorize payment of the expenses and costs incurred pursuant to this section from the Legislative Fund.

**6. As used in this section:**

**(a) "Action or proceeding" means any action, suit, matter, cause, hearing, appeal or proceeding.**

**(b) "Agency" means any agency, office, department, division, board, commission, authority, committee, subcommittee or other similar body or entity, including, without limitation, any body or entity created by an interstate, cooperative, joint or interlocal agreement or compact.**

**Sec. 11.4. NRS 12.130 is hereby amended to read as follows:**

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

**(a)** Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success of either of the parties, or an interest against both.

~~{2-}~~ **(b)** An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant.

~~{3-}~~ **(c)** Intervention is made as provided by the Nevada Rules of Civil Procedure.

~~{4-}~~ **(d)** The court shall determine upon the intervention at the same time that the action is decided. If the claim of the party intervening is not sustained, he shall pay all costs incurred by the intervention.

**2. The provisions of this section do not apply to intervention in an action or proceeding by the Legislature pursuant to NRS 218.697.**

**Sec. 11.6. NRS 65.030 is hereby amended to read as follows:**

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

**(a)** Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success of either of the parties, or an interest against both.

~~{2-}~~ **(b)** An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant; and is made by complaint, setting forth the grounds upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared, and upon the attorneys of the parties who have appeared, who may answer or demur to it as if it were an original complaint.

~~{3-}~~ **(c)** The court shall determine upon the intervention at the same time that the action is decided. If the claim of the party intervening is not sustained he shall pay all costs incurred by the intervention.

**2. The provisions of this section do not apply to intervention in an action or proceeding by the Legislature pursuant to NRS 218.697.**



**Sec. 12.** NRS 417.230 is hereby amended to read as follows:

417.230 1. There are hereby created the Advisory Committee for a Veterans' Cemetery in Northern Nevada and the Advisory Committee for a Veterans' Cemetery in Southern Nevada, each consisting of seven members as follows:

(a) One member of the Senate, appointed by the Majority Leader of the Senate.

(b) One member of the Assembly, appointed by the Speaker of the Assembly.

(c) Five members of veterans' organizations in this State, appointed by the Governor.

2. The members of the Committees shall serve terms of 2 years.

3. Each Committee shall annually elect a Chairman and a Vice Chairman from among its members.

4. Each Committee shall meet at least 4 times a year.

5. Any legislative member of a Committee who is not a candidate for reelection or who is defeated for reelection continues to serve **after the general election** until the ~~convening of the~~ next **regular or special** session of the Legislature ~~it~~ **convenes**.

6. While engaged in the work of the Committee, each member of each Committee is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. The Executive Director shall consult with each Committee regarding the establishment, maintenance and operation of the veterans' cemetery for which the Committee was created.

**Sec. 13.** NRS 439B.200 is hereby amended to read as follows:

439B.200 1. There is hereby established a Legislative Committee on Health Care consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. The members must be appointed with appropriate regard for their experience with and knowledge of matters relating to health care.

2. No member of the Committee may:

(a) Have a financial interest in a health facility in this State;

(b) Be a member of a board of directors or trustees of a health facility in this State;

(c) Hold a position with a health facility in this State in which the Legislator exercises control over any policies established for the health facility; or

(d) Receive a salary or other compensation from a health facility in this State.

3. The provisions of subsection 2 do not:

(a) Prohibit a member of the Committee from selling goods which are not unique to the provision of health care to a health facility if the member primarily sells such goods to persons who are not involved in the provision of health care.

(b) Prohibit a member of the Legislature from serving as a member of the Committee if:

(1) The financial interest, membership on the board of directors or trustees, position held with the health facility or salary or other compensation received would not materially affect the independence of judgment of a reasonable person; and

(2) Serving on the Committee would not materially affect any financial interest he has in a health facility in a manner greater than that accruing to any other person who has a similar interest.

4. The Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. Each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the Committee must alternate each biennium between the houses of the Legislature.

5. Any member of the Committee who does not ~~return to the Legislature~~ **become a candidate for reelection or who is defeated for reelection** continues to serve **after the general election** until the next **regular or special** session of the Legislature convenes.

6. Vacancies on the Committee must be filled in the same manner as original appointments.

7. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

**Sec. 13.5. Section 16 of chapter 524, Statutes of Nevada 2007, at page 3170, is hereby amended to read as follows:**

Sec. 16. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. Sections 3 to 10, inclusive, and 15 of this act expire by limitation on June 30, 2011.]~~

Sec. 14. Section 56 of chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve *after the general election* until the next *regular or special* session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee 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, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➡ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 15. 1. This ~~act becomes~~ **section and sections 11.2, 11.4, 11.6 and 13.5 of this act become effective upon passage and approval.**

**2. Sections 1 to 11, inclusive, and 12, 13 and 14 of this act become effective on July 1, 2009.**

~~2.~~ **3.** Section 14 of this act expires by limitation on July 1, 2013.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 535.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 381.

The following Senate amendment was read:

Amendment No. 764.

AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Sections 5 and 17** of this bill make unenforceable, to the extent allowed by federal law, a consumer contract that mandates arbitration of disputes involving subjects of the contract arising after formation of the contract.

**Section 6** of this bill mandates the inclusion of certain disclosures relating to the costs of arbitration in consumer contracts.

**Section 10** of this bill mandates certain disclosures by certain arbitral organizations.

**Sections 11 and 13** of this bill prohibit the conduct of consumer arbitration proceedings by arbitral organizations under certain circumstances.

**Section 12** of this bill provides for waiver of arbitration fees that would otherwise be charged or assessed against a consumer under certain circumstances.

**Section 14** of this bill provides for injunctive relief and other remedies for certain violations by arbitral organizations.

**Sections 18 and 19** of this bill revise provisions establishing the circumstances under which remedies may be awarded by a court or arbitrator. (NRS 38.222, 38.238)

~~f Section 20 of this bill makes unenforceable, to the extent allowed by federal law, a consumer contract of insurance that mandates arbitration of disputes involving insurance arising after formation of the contract.~~

~~Sections 21-24 of this bill eliminate provisions in contracts of insurance for health care that mandate arbitration of disputes involving the results of independent evaluations, providing for second independent evaluations. (NRS 689A.0403, 689B.270, 695B.182, 695C.265)~~

~~Section 25 of this bill repeals NRS 690B.155, which requires a provision of mandatory arbitration in a contract of insurance for home protection.]~~

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

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

Sec. 3. *"Consumer" means a person who either:*

*1. Uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes; or*

*2. Is an employee of or seeks employment with the other party to the agreement.*

Sec. 4. *"Consumer arbitration agreement" means a standardized contract where one party drafts a provision that requires disputes arising after the signing of the contract to be submitted to binding arbitration and the other party is a consumer. Such an agreement does not include a public or private sector collective bargaining agreement.*

Sec. 5. *A consumer arbitration agreement is void and unenforceable except to the extent federal law provides for its enforceability.*

Sec. 6. *1. A person drafting a consumer arbitration agreement shall clearly and conspicuously disclose in regard to any arbitration:*

*(a) The filing fee;*

*(b) The average daily cost for an arbitrator and hearing room if the consumer elects to appear in person;*

*(c) Other charges that the arbitrator or arbitration service provider will assess in conjunction with an arbitration where the consumer appears in person; and*

*(d) The proportion of these costs which each party bears in the event that the consumer prevails and in the event that the consumer does not prevail.*

*2. The costs specified in subsection 1 need not include attorney's fees and, to the extent that, with regard to the disclosures required by subsection 1, precise amounts of the fees, costs and charges are not known, the disclosures may be based on reasonable, good faith estimates. A person providing a reasonable, good faith estimate is not liable in any manner for the fact that the actual fees, costs and charges of a particular arbitration vary from the estimate provided.*

*3. Failure to comply with this section is not grounds to refuse to enforce a consumer arbitration agreement. However, the information provided in the disclosure can be considered in a determination of whether*

*a consumer arbitration agreement is unconscionable or otherwise not enforceable under other law.*

*4. Whenever this section is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the drafting party from violating this section as to agreements the drafting party enters in the future. The drafting party is liable to the person or entity requesting the injunction for the reasonable attorney's fees and costs of the person requesting the injunction where the court issues an injunction or where, after the action is commenced, the drafting party voluntarily complies with this section.*

Sec. 7. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. *"Consumer" means a person who has a dispute relating to that person's status as:*

*1. A user of, purchaser of or person who attempts to use or purchase any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes;*

*2. An enrollee, subscriber or insured under a health care plan or health care insurance, or a person with a medical malpractice claim; or*

*3. An employee or applicant for employment, except where an arbitration is pursuant to the terms of a public or private sector collective bargaining agreement.*

Sec. 9. *"Consumer arbitration" means a binding arbitration where one party is a consumer.*

Sec. 10. *1. Any arbitral organization that administers or is otherwise involved in 50 or more consumer arbitrations a year shall collect, publish at least quarterly, and make available to the public in a computer-searchable format, which must be accessible on the Internet website of the arbitral organization, if any, and on paper upon request, all of the following information regarding each consumer arbitration within the preceding 5 years:*

*(a) The name of any corporation or other business entity that is a party to the arbitration;*

*(b) The type of dispute involved, including, without limitation, goods, banking, insurance, health care, debt collection, employment and, if the dispute involves employment, the amount of the employee's annual wage divided into the following ranges:*

*(1) Less than one hundred thousand dollars;*

*(2) One hundred thousand dollars or more but not more than two hundred fifty thousand dollars; and*

*(3) More than two hundred fifty thousand dollars;*

*(c) Whether the consumer was the prevailing party;*

*(d) On how many occasions, if any, a business entity that is a party to an arbitration has previously been a party in an arbitration or mediation administered by the arbitral organization;*

- (e) Whether the consumer was represented by an attorney;*
- (f) The date the arbitral organization received the demand for arbitration, the date the arbitrator was appointed and the date of disposition by the arbitrator or arbitral organization;*
- (g) The type of disposition of the dispute, if known, including, without limitation, withdrawal, abandonment, settlement, award after hearing, award without hearing, default or dismissal without hearing;*
- (h) The amount of the claim, the amount of the award and any other relief granted; and*
- (i) The name of the arbitrator, his total fee for the case and the percentage of the arbitrator's fee allocated to each party.*

*2. If the information that is required pursuant to subsection 1 is provided by the arbitral organization in a computer-searchable format on the company's Internet website and may be downloaded without any fee, the arbitral organization may charge the actual cost of copying to any person who requests the information on paper. If the information required is not accessible on the Internet, the arbitral organization shall provide that information without charge to any person who requests the information on paper.*

*3. An arbitral organization that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subsection 1 semiannually, provide the information only on paper and charge the actual cost of copying.*

*4. No arbitral organization has any liability for collecting, publishing or distributing the information in compliance with this section.*

*Sec. 11. No arbitral organization may administer a consumer arbitration to be conducted in this State or provide any other services related to that consumer arbitration, if:*

*1. The arbitral organization has, or within the preceding year has had, a financial interest in any party or attorney for a party to the arbitration; or*

*2. Any party or attorney for a party to the arbitration has, or within the preceding year has had, any type of financial interest in the arbitral organization.*

*Sec. 12. 1. All fees and costs charged to or assessed in this State upon a consumer by an arbitral organization in a consumer arbitration must be waived for any person having a gross monthly income that is less than 300 percent of the federal poverty guidelines.*

*2. Nothing in this section affects the ability of an arbitral organization to shift fees that would otherwise be charged or assessed upon a consumer to another party.*

*3. Prior to requesting or obtaining any fee, an arbitral organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, without limitation, prominently placing a notice in its*



*first written communication to a consumer and in any invoice, bill, submission form, fee schedule, rules or code of procedure.*

4. *Any consumer requesting a waiver of fees or costs may establish eligibility by making a declaration under oath on a form provided by the arbitral organization indicating the monthly income of the consumer and the number of persons living in the household of the consumer. No arbitral organization may require a consumer to provide any further statement or evidence of indigency.*

5. *Any information obtained by an arbitral organization about a consumer's identity, financial condition, income, wealth or fee waiver request must be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except that an arbitral organization may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.*

Sec. 13. *A neutral arbitrator or an arbitral organization shall not administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, without limitation, the fees and costs of the arbitrator, arbitral organization, attorney or witnesses.*

Sec. 14. *Whenever a provision of sections 10 to 14, inclusive, of this act is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the arbitral organization from violating the applicable provision of sections 10 to 14, inclusive, of this act and order such restitution as appropriate. The arbitral organization is liable for the reasonable attorney's fees and costs of that person or entity where that person or entity prevails or where, after the action is commenced, the arbitral organization voluntarily complies with the provisions of sections 10 to 14, inclusive, of this act.*

Sec. 15. NRS 38.207 is hereby amended to read as follows:

38.207 As used in NRS 38.206 to 38.248, inclusive, *and sections 8 to 14, inclusive, of this act*, the words and terms defined in NRS 38.208 to 38.213, inclusive, *and sections 8 and 9 of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 38.216 is hereby amended to read as follows:

38.216 1. NRS 38.206 to 38.248, inclusive, *and sections 8 to 14, inclusive, of this act* govern an agreement to arbitrate made on or after October 1, 2001.

2. NRS 38.206 to 38.248, inclusive, *and sections 8 to 14, inclusive, of this act* govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, *and sections 8 to 14, inclusive, of this act* govern an agreement to arbitrate whenever made.

Sec. 17. NRS 38.219 is hereby amended to read as follows:

38.219 1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except : ~~upon~~

(a) *As provided in ~~sections~~ section 5 ~~and 20~~ of this act; or*

(b) *Upon* a ground that exists at law or in equity for the revocation of a contract.

2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 18. NRS 38.222 is hereby amended to read as follows:

38.222 1. *Except as otherwise provided in section 13 of this act:*

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

~~{2-}~~ (b) After an arbitrator is appointed and is authorized and able to act:

~~{(a)}~~ (1) The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

~~{(b)}~~ (2) A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

~~{3-}~~ 2. A party does not waive a right of arbitration by making a motion under subsection 1 . ~~{or 2-}~~

Sec. 19. NRS 38.238 is hereby amended to read as follows:

38.238 *Except as otherwise provided in section 13 of this act:*

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

Sec. 20. ~~[Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—Any provisions in any contract of insurance that require a consumer to submit a controversy relating to insurance thereafter arising to arbitration are contrary to the established public policy of this State.~~

~~2.—A contract of insurance with a consumer that requires the submission to arbitration of any controversy related to the insurance transaction thereafter arising between the parties is hereby prohibited and any such arbitration provision is hereby declared invalid, unenforceable and void. Any such arbitration provision shall be considered severable and other provisions of the contract for insurance will remain in effect and given full force.~~

~~3.—If a written agreement that involves both insurance and any other services, goods, property or credit includes a mandatory arbitration provision, there must be a clear and conspicuous disclosure that the mandatory arbitration provision does not apply to any dispute related to insurance.~~

~~4.—A person violating this section is liable to the consumer in an amount equal to the sum of any actual damage sustained by the consumer as a result of the violation plus \$100, even if no actual damage is proved, plus costs of the action, together with a reasonable attorney's fee. Any provision in a contract of insurance that requires an action to enforce this section to be submitted to arbitration is void and unenforceable unless the consumer agrees to arbitration after filing suit or after otherwise notifying the other party of the violation.~~

~~5.—For the purposes of this section, “consumer” means a person who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished insurance for personal, family or household purposes.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 689A.0403 is hereby amended to read as follows:~~

~~689A.0403—1.—[Each policy of health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.]—If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of the contract of insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~[3.]—2.—The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified~~

copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

~~3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer [pursuant to the procedure for binding arbitration set forth in the policy of insurance] within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor [.] and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.~~

~~4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is [in arbitration,] **being appealed**, except that, if the insurer prevails in the [arbitration,] **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [3] **2** concerning the appeal of the insured person.] (Deleted by amendment.)~~

Sec. 22. [NRS 689B.270 is hereby amended to read as follows:

~~689B.270 1. [Each policy of group or blanket health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.] If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of a policy of group or blanket health insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~[3.] 2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer [pursuant to the procedure for binding arbitration set forth in the policy of insurance] within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor [.] and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.~~

~~4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is [in arbitration,] **being appealed**, except~~

~~that, if the insurer prevails in the [arbitration,] **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [3] **2** concerning the appeal of the insured person.~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 695B.182 is hereby amended to read as follows:~~

~~695B.182 1. [Each contract for hospital or medical services must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.] If a corporation subject to the provisions of this chapter, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under a contract for hospital or medical services, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~[3.] 2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer [pursuant to the procedure for binding arbitration set forth in the contract for services] within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor [.] **and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.**~~

~~4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is in arbitration, except that, if the insurer prevails in the arbitration, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [3] **2** concerning the appeal of the insured person.~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 695C.265 is hereby amended to read as follows:~~

~~695C.265 1. If a health maintenance organization, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is provided under the evidence of coverage [:~~

(a) ~~The evidence of coverage must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association; and~~

(b) ~~Only], **only** a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~2.—The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X-rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~3.—If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer [pursuant to the procedure for binding arbitration set forth in the evidence of coverage] within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor [.] **and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.**~~

~~[3.] **4.—**The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is [in arbitration,] **being appealed**, except that, if the insurer prevails in the [arbitration,] **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [2] **3** concerning the appeal of the insured person.] (Deleted by amendment.)~~

Sec. 25. ~~[NRS 690B.155 is hereby repealed.] (Deleted by amendment.)~~  
f

#### ~~TEXT OF REPEALED SECTION~~

~~**690B.155—Provision requiring binding arbitration authorized; procedures for arbitration.**~~

~~1.—Subject to the approval of the Commissioner, a contract of insurance for home protection may include a provision which requires the parties to the contract to submit for binding arbitration any dispute between the parties concerning any matter directly or indirectly related to, or associated with, the contract.~~

~~2.—Except as otherwise provided in subsection 3, the arbitration must be conducted pursuant to the rules for commercial arbitration established by the American Arbitration Association. The insurer is responsible for any administrative fees and expenses relating to the arbitration, except that the insurer is not responsible for attorney's fees and fees for expert witnesses unless those fees are awarded by the arbitrator.~~

~~3. If a provision described in subsection 1 is included in a contract of insurance for home protection, the provision shall not be deemed unenforceable as an unreasonable contract of adhesion if the provision is included in compliance with the provisions of subsection 1.]~~

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 764 to Assembly Bill No. 381.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 915.

AN ACT relating to trade practices; ~~[making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances;]~~ requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[ Sections 5 and 17 of this bill make unenforceable, to the extent allowed by federal law, a consumer contract that mandates arbitration of disputes involving subjects of the contract arising after formation of the contract.]~~

**Section 6** of this bill mandates the inclusion of certain disclosures relating to the costs of arbitration in consumer contracts.

**Section 10** of this bill mandates certain disclosures by certain arbitral organizations.

**Sections 11 and 13** of this bill prohibit the conduct of consumer arbitration proceedings by arbitral organizations under certain circumstances.

**Section 12** of this bill provides for waiver of arbitration fees that would otherwise be charged or assessed against a consumer under certain circumstances.

**Section 14** of this bill provides for injunctive relief and other remedies for certain violations by arbitral organizations.

**Sections 18 and 19** of this bill revise provisions establishing the circumstances under which remedies may be awarded by a court or arbitrator. (NRS 38.222, 38.238)

~~[ Section 20 of this bill makes unenforceable, to the extent allowed by federal law, a consumer contract of insurance that mandates arbitration of disputes involving insurance arising after formation of the contract.]~~

**Sections 21-24** of this bill eliminate provisions in contracts of insurance for health care that mandate arbitration of disputes involving the results of independent evaluations, providing for second independent evaluations. (NRS 689A.0403, 689B.270, 695B.182, 695C.265)

**Section 25** of this bill repeals NRS 690B.155, which requires a provision of mandatory arbitration in a contract of insurance for home protection.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

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

Sec. 3. "Consumer" means a person who ~~either~~  
~~1. Uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or~~ *uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any* ~~personal property, tangible or intangible goods, services or credit for personal, family or household purposes.~~ *personal property, tangible or intangible goods, services or credit for personal, family or household purposes.* ~~or~~

~~2. Is an employee of or seeks employment with the other party to the agreement.~~

Sec. 4. "Consumer arbitration agreement" means a standardized contract where one party drafts a provision that requires disputes arising after the signing of the contract to be submitted to binding arbitration and the other party is a consumer. Such an agreement does not include a public or private sector collective bargaining agreement.

Sec. 5. ~~[A consumer arbitration agreement is void and unenforceable except to the extent federal law provides for its enforceability.] (Deleted by amendment.)~~

Sec. 6. 1. A person drafting a consumer arbitration agreement shall clearly and conspicuously disclose in regard to any arbitration:

- (a) The filing fee;
- (b) The average daily cost for an arbitrator and hearing room if the consumer elects to appear in person;
- (c) Other charges that the arbitrator or arbitration service provider will assess in conjunction with an arbitration where the consumer appears in person; and
- (d) The proportion of these costs which each party bears in the event that the consumer prevails and in the event that the consumer does not prevail.

2. The costs specified in subsection 1 need not include attorney's fees and, to the extent that, with regard to the disclosures required by subsection 1, precise amounts of the fees, costs and charges are not known, the disclosures may be based on reasonable, good faith estimates. A person providing a reasonable, good faith estimate is not liable in any manner for the fact that the actual fees, costs and charges of a particular arbitration vary from the estimate provided.

3. Failure to comply with this section is not grounds to refuse to enforce a consumer arbitration agreement. However, the information provided in the disclosure can be considered in a determination of whether a consumer arbitration agreement is unconscionable or otherwise not enforceable under other law.

4. Whenever this section is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the drafting



*party from violating this section as to agreements the drafting party enters in the future. The drafting party is liable to the person or entity requesting the injunction for the reasonable attorney's fees and costs of the person requesting the injunction where the court issues an injunction or where, after the action is commenced, the drafting party voluntarily complies with this section.*

Sec. 7. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. *"Consumer" means a person who has a dispute relating to that person's status as:*

*1. A user of, purchaser of or person who attempts to use or purchase any ~~real or~~ personal property, tangible or intangible goods, services or credit for personal, family or household purposes;*

*2. An enrollee, subscriber or insured under a health care plan or health care insurance, or a person with a medical malpractice claim; or*

*3. An employee or applicant for employment, except where an arbitration is pursuant to the terms of a public or private sector collective bargaining agreement.*

Sec. 9. *"Consumer arbitration" means a binding arbitration where one party is a consumer.*

Sec. 10. *1. Any arbitral organization that administers or is otherwise involved in 50 or more consumer arbitrations a year shall collect, publish at least quarterly, and make available to the public in a computer-searchable format, which must be accessible on the Internet website of the arbitral organization, if any, and on paper upon request, all of the following information regarding each consumer arbitration within the preceding 5 years:*

*(a) The name of any corporation or other business entity that is a party to the arbitration;*

*(b) The type of dispute involved, including, without limitation, goods, banking, insurance, health care, debt collection, employment and, if the dispute involves employment, the amount of the employee's annual wage divided into the following ranges:*

*(1) Less than one hundred thousand dollars;*

*(2) One hundred thousand dollars or more but not more than two hundred fifty thousand dollars; and*

*(3) More than two hundred fifty thousand dollars;*

*(c) Whether the consumer was the prevailing party;*

*(d) On how many occasions, if any, a business entity that is a party to an arbitration has previously been a party in an arbitration or mediation administered by the arbitral organization;*

*(e) Whether the consumer was represented by an attorney;*

*(f) The date the arbitral organization received the demand for arbitration, the date the arbitrator was appointed and the date of disposition by the arbitrator or arbitral organization;*

(g) *The type of disposition of the dispute, if known, including, without limitation, withdrawal, abandonment, settlement, award after hearing, award without hearing, default or dismissal without hearing;*

(h) *The amount of the claim, the amount of the award and any other relief granted; and*

(i) *The name of the arbitrator, his total fee for the case and the percentage of the arbitrator's fee allocated to each party.*

2. *If the information that is required pursuant to subsection 1 is provided by the arbitral organization in a computer-searchable format on the company's Internet website and may be downloaded without any fee, the arbitral organization may charge the actual cost of copying to any person who requests the information on paper. If the information required is not accessible on the Internet, the arbitral organization shall provide that information without charge to any person who requests the information on paper.*

3. *An arbitral organization that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subsection 1 semiannually, provide the information only on paper and charge the actual cost of copying.*

4. *No arbitral organization has any liability for collecting, publishing or distributing the information in compliance with this section.*

Sec. 11. *No arbitral organization may administer a consumer arbitration to be conducted in this State or provide any other services related to that consumer arbitration, if:*

1. *The arbitral organization has, or within the preceding year has had, a financial interest in any party or attorney for a party to the arbitration; or*

2. *Any party or attorney for a party to the arbitration has, or within the preceding year has had, any type of financial interest in the arbitral organization.*

Sec. 12. 1. *All fees and costs charged to or assessed in this State upon a consumer by an arbitral organization in a consumer arbitration must be waived for any person having a gross monthly income that is less than 300 percent of the federal poverty guidelines.*

2. *Nothing in this section affects the ability of an arbitral organization to shift fees that would otherwise be charged or assessed upon a consumer to another party.*

3. *Prior to requesting or obtaining any fee, an arbitral organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, without limitation, prominently placing a notice in its first written communication to a consumer and in any invoice, bill, submission form, fee schedule, rules or code of procedure.*

4. *Any consumer requesting a waiver of fees or costs may establish eligibility by making a declaration under oath on a form provided by the arbitral organization indicating the monthly income of the consumer and*

*the number of persons living in the household of the consumer. No arbitral organization may require a consumer to provide any further statement or evidence of indigency.*

*5. Any information obtained by an arbitral organization about a consumer's identity, financial condition, income, wealth or fee waiver request must be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except that an arbitral organization may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.*

*Sec. 13. A neutral arbitrator or an arbitral organization shall not administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, without limitation, the fees and costs of the arbitrator, arbitral organization, attorney or witnesses.*

*Sec. 14. Whenever a provision of sections 10 to 14, inclusive, of this act is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the arbitral organization from violating the applicable provision of sections 10 to 14, inclusive, of this act and order such restitution as appropriate. The arbitral organization is liable for the reasonable attorney's fees and costs of that person or entity where that person or entity prevails or where, after the action is commenced, the arbitral organization voluntarily complies with the provisions of sections 10 to 14, inclusive, of this act.*

*Sec. 15. NRS 38.207 is hereby amended to read as follows:*

*38.207 As used in NRS 38.206 to 38.248, inclusive, and sections 8 to 14, inclusive, of this act, the words and terms defined in NRS 38.208 to 38.213, inclusive, and sections 8 and 9 of this act have the meanings ascribed to them in those sections.*

*Sec. 16. NRS 38.216 is hereby amended to read as follows:*

*38.216 1. NRS 38.206 to 38.248, inclusive, and sections 8 to 14, inclusive, of this act govern an agreement to arbitrate made on or after October 1, 2001.*

*2. NRS 38.206 to 38.248, inclusive, and sections 8 to 14, inclusive, of this act govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.*

*3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, and sections 8 to 14, inclusive, of this act govern an agreement to arbitrate whenever made.*

*Sec. 17. ~~NRS 38.219 is hereby amended to read as follows:~~*

~~*38.219 1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except:*~~ *[upon]*

~~*(a) As provided in sections 5 and 20 of this act; or*~~

~~(b) Upon a ground that exists at law or in equity for the revocation of a contract.~~

~~2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.~~

~~3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.~~

~~4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders. (Deleted by amendment.)~~

Sec. 18. NRS 38.222 is hereby amended to read as follows:

38.222 1. ***Except as otherwise provided in section 13 of this act:***

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

~~{2-}~~ (b) After an arbitrator is appointed and is authorized and able to act:

~~{(a)}~~ (1) The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

~~{(b)}~~ (2) A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

~~{3-}~~ 2. A party does not waive a right of arbitration by making a motion under subsection 1. ~~{or 2-}~~

Sec. 19. NRS 38.238 is hereby amended to read as follows:

38.238 ***Except as otherwise provided in section 13 of this act:***

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

Sec. 20. ~~[Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Any provisions in any contract of insurance that require a consumer to submit a controversy relating to insurance thereafter arising to arbitration are contrary to the established public policy of this State.~~

~~2. A contract of insurance with a consumer that requires the submission to arbitration of any controversy related to the insurance transaction thereafter arising between the parties is hereby prohibited and any such arbitration provision is hereby declared invalid, unenforceable and void. Any such arbitration provision shall be considered severable and other provisions of the contract for insurance will remain in effect and given full force.~~

~~3. If a written agreement that involves both insurance and any other services, goods, property or credit includes a mandatory arbitration provision, there must be a clear and conspicuous disclosure that the mandatory arbitration provision does not apply to any dispute related to insurance.~~

~~4. A person violating this section is liable to the consumer in an amount equal to the sum of any actual damage sustained by the consumer as a result of the violation plus \$100, even if no actual damage is proved, plus costs of the action, together with a reasonable attorney's fee. Any provision in a contract of insurance that requires an action to enforce this section to be submitted to arbitration is void and unenforceable unless the consumer agrees to arbitration after filing suit or after otherwise notifying the other party of the violation.~~

~~5. For the purposes of this section, "consumer" means a person who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished insurance for personal, family or household purposes. (Deleted by amendment.)~~

Sec. 21. NRS 689A.0403 is hereby amended to read as follows:

689A.0403 1. ~~{Each policy of health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

2-} If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of the contract of insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

{3-} 2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[pursuant to the procedure for binding arbitration set forth in the policy of insurance]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[ ]~~ **and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.**

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[in arbitration,]~~ **being appealed**, except that, if the insurer prevails in the ~~[arbitration,]~~ **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[3]~~ **2** concerning the appeal of the insured person.

Sec. 22. NRS 689B.270 is hereby amended to read as follows:

689B.270 1. ~~[Each policy of group or blanket health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.]~~

~~2.]~~ If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of a policy of group or blanket health insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~[3.]~~ 2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[pursuant to the procedure for binding arbitration set forth in the policy of insurance]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[ ]~~ **and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.**

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[in arbitration,]~~ **being appealed**, except that, if the insurer prevails in the ~~[arbitration,]~~ **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the

patient after receiving written notice from the insurer pursuant to subsection ~~{3}~~ 2 concerning the appeal of the insured person.

Sec. 23. NRS 695B.182 is hereby amended to read as follows:

695B.182 1. ~~{Each contract for hospital or medical services must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.}~~

~~2.}~~ If a corporation subject to the provisions of this chapter, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under a contract for hospital or medical services, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~{3.}~~ 2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~{pursuant to the procedure for binding arbitration set forth in the contract for services}~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~{}~~ **and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.**

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is in arbitration, except that, if the insurer prevails in the arbitration, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~{3}~~ 2 concerning the appeal of the insured person.

Sec. 24. NRS 695C.265 is hereby amended to read as follows:

695C.265 1. If a health maintenance organization, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is provided under the evidence of coverage ~~{}~~:

~~(a) The evidence of coverage must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association; and~~

~~(b) Only~~, **only** a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or

who is formally educated in that field may conduct the independent evaluation.

2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[pursuant to the procedure for binding arbitration set forth in the evidence of coverage]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[ ]~~ **and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.**

~~[3.]~~ 4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[in arbitration.]~~ **being appealed**, except that, if the insurer prevails in the ~~[arbitration.]~~ **appeal**, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[2]~~ 3 concerning the appeal of the insured person.

Sec. 25. NRS 690B.155 is hereby repealed.

#### TEXT OF REPEALED SECTION

#### **690B.155 Provision requiring binding arbitration authorized; procedures for arbitration.**

1. Subject to the approval of the Commissioner, a contract of insurance for home protection may include a provision which requires the parties to the contract to submit for binding arbitration any dispute between the parties concerning any matter directly or indirectly related to, or associated with, the contract.

2. Except as otherwise provided in subsection 3, the arbitration must be conducted pursuant to the rules for commercial arbitration established by the American Arbitration Association. The insurer is responsible for any administrative fees and expenses relating to the arbitration, except that the insurer is not responsible for attorney's fees and fees for expert witnesses unless those fees are awarded by the arbitrator.

3. If a provision described in subsection 1 is included in a contract of insurance for home protection, the provision shall not be deemed unenforceable as an unreasonable contract of adhesion if the provision is included in compliance with the provisions of subsection 1.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 915 to Assembly Bill No. 381.



Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 474.

The following Senate amendment was read:

Amendment No. 726.

AN ACT relating to parole; requiring mandatory ~~release on~~ parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) This bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of Corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in ~~subsections 3, 4 and 5~~  
*this section* 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.

2. *Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his current term of imprisonment to his subsequent term of imprisonment or must, if the*

*prisoner does not still have a consecutive sentence to be served, be released on parole, if:*

*(a) The prisoner has served the minimum term of imprisonment imposed by the court;*

*(b) The prisoner has completed a program of general education or an industrial or vocational training program;*

*(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and*

*(d) The prisoner has not, within the immediately preceding 24 months:*

*(1) Committed a major violation of the regulations of the Department of Corrections; or*

*(2) Been housed in disciplinary segregation.*

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~{2-}~~ 4. 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-}~~ 5. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~{1}~~ *or 2* 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 ~~{1}~~ *or 2*. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~{1}~~ *or 2*, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~{4-}~~ 6. 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-}~~ 7. 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-}~~ 8. 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.

Assemblyman Horne moved that the Assembly concur in Senate Amendment No. 726 to Assembly Bill No. 474.

Remarks by Assemblyman Horne.

Motion carried.

The following Senate amendment was read:

Amendment No. 903.

AN ACT relating to parole; providing for the aggregation of consecutive sentences for the purposes of determining parole eligibility for certain

prisoners under certain circumstances; requiring mandatory parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a prisoner may be sentenced to consecutive sentences of imprisonment and may be paroled from a current term of imprisonment to a subsequent term of imprisonment. (NRS 176.035) Section 2.5 of this bill provides that eligibility for parole of a prisoner sentenced to two or more consecutive sentences of life imprisonment with the possibility of parole: (1) for offenses committed on or after July 1, 2009, must be based upon the aggregation of the minimum sentences for those offenses; and (2) for offenses committed before July 1, 2009, may, at the option of the prisoner, be based upon the aggregation of the minimum sentences for such offenses, provided that the prisoner has not previously been considered for parole.

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) ~~(This)~~ Section 3 of this bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of Corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

*Sec. 2.5. NRS 213.1213 is hereby amended to read as follows:*

213.1213 1. If a prisoner is sentenced pursuant to NRS 176.035 to serve two or more concurrent sentences, whether or not the sentences are identical in length or other characteristics, eligibility for parole from any of the concurrent sentences must be based on the sentence which requires the longest period before the prisoner is eligible for parole.

2. Notwithstanding any other provision of law, if a prisoner is sentenced pursuant to NRS 176.035 to serve two or more consecutive sentences of life imprisonment with the possibility of parole:

(a) For offenses committed on or after July 1, 2009:

(1) All minimum sentences for such offenses must be aggregated;

(2) The prisoner shall be deemed to be eligible for parole from all such sentences after serving the minimum aggregate sentence; and

(3) The Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

(b) For offenses committed before July 1, 2009, in cases in which the prisoner has not previously been considered for parole for any such offenses:

(1) The prisoner may, by submitting a written request to the Director of the Department of Corrections, make an irrevocable election to have the minimum sentences for such offenses aggregated; and

(2) If the prisoner makes such an irrevocable election to have the minimum sentences for such offenses aggregated, the Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in ~~subsections 3, 4 and 5~~ *this section* 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.

2. *Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his current term of imprisonment to his subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:*

*(a) The prisoner has served the minimum term of imprisonment imposed by the court;*

*(b) The prisoner has completed a program of general education or an industrial or vocational training program;*

*(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and*

*(d) The prisoner has not, within the immediately preceding 24 months:*

*(1) Committed a major violation of the regulations of the Department of Corrections; or*

*(2) Been housed in disciplinary segregation.*

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~{2-}~~ 4. 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-}~~ 5. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~{1-}~~ *or* 2 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 ~~{1-}~~ *or* 2. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~{1-}~~ *or* 2, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~{4-}~~ 6. 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-}~~ 7. 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-}~~ 8. 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. 4. 1. This section and section 2.5 of this act become effective on July 1, 2009.**

**2. Section 3 of this act becomes effective on October 1, 2009.**

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 474.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

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

Assembly in recess at 12:12 p.m.

#### ASSEMBLY IN SESSION

At 1:06 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 467.

The following Senate amendment was read:

Amendment No. 838.

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1 of this bill requires that statutes which specifically state that certain statutory provisions relating to the payment of prevailing wages apply to a construction project be construed, if the public body is not a party to the contract or agreement for the construction of the project, to: (1) require the person or entity executing the contract or agreement for the construction of the project to include in the contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work; (2) require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or awarded the contract; and (3) require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work. Section 1 of this bill makes a conforming change. (NRS 338.013)}~~

Section 21 of this bill provides that the prevailing wage requirements apply to certain lease-purchase and installment-purchase agreements by local governments. Sections 1.7, 1.9, 22 and 22.5, 24 and 24.5 of this bill clarify ~~that~~ the application of the prevailing wage requirements ~~apply~~ to certain lease-purchase and installment-purchase contracts entered into by the State or its political subdivisions.

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

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

~~Statutes which state that the provisions of NRS 338.010 to 338.090, inclusive, 338.013 to 338.090, inclusive, or 338.020 to 338.090, inclusive, apply to a construction project of any kind must be construed, if the public body is not a party to the contract for the actual construction of the project, to:~~

~~1.—Require the person or entity that executes one or more contracts or agreements for the actual construction of the project to include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.~~

~~2.—Require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or had awarded the contract.~~

~~3.—Require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor~~

~~on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.] (Deleted by amendment.)~~

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. NRS 338.013 is hereby amended to read as follows:

338.013 1. A public body that ~~advertises for bids for~~ **undertakes** a public work shall request from the Labor Commissioner, and include in ~~the~~ **any** advertisement ~~[-] or other type of solicitation~~, an identifying number with his designation of the work. That number must be included in any bid **or other document** submitted in response to the advertisement ~~[-] or other type of solicitation~~.

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address of each subcontractor whom he engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

**Sec. 1.9. NRS 244.286 is hereby amended to read as follows:**

244.286 1. The board of county commissioners of any county may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the board of county commissioners and thereupon enter into a lease or a lease-purchase agreement with the board of county commissioners for that building or facility.

2. The board of county commissioners may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. ~~The [provisions of NRS 338.010 to 338.090, inclusive, apply to any]~~ **person who enters into an agreement for the actual construction or remodeling of a building or facility [entered into] pursuant to subsection 1 [-] shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.**

**4. The board of county commissioners, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if**

**the board of county commissioners had undertaken the project or had awarded the contract.**

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. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or



other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

- (a) Must have a term that is 30 years or less;
- (b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and
- (c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~{5.}~~ For the purposes of *this* subsection, ~~{4.}~~ the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

5. ~~If ~~for~~ a lease-purchase or installment-purchase agreement pursuant to ~~this section~~ NRS 280.266 or 350.089 involves the construction, alteration, repair or remodeling of an improvement ~~for~~:~~

~~(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~for~~ apply to the construction, alteration, repair or remodeling of the improvement.~~

~~(b) The governing body, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.~~

Sec. 22. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process

of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

- (a) Engage in or allow bid-shopping; or
- (b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. ~~If a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement~~ ;:

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~It~~ apply to the construction, alteration, repair or remodeling of the improvement.

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

**Sec. 22.5. NRS 353.590 is hereby amended to read as follows:**

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

- (a) Any law requiring competitive bidding; or
- (b) Chapter 341 of NRS.

2. ~~The provisions of NRS 338.013 to 338.090, inclusive, apply to~~ person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement ~~It~~ shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction,

alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

- (a) Subsection 9 of NRS 341.100; and
- (b) NRS 341.105,

→ apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 354.740 is hereby amended to read as follows:

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

- (a) Engage in or allow bid-shopping; or
- (b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. *If a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement ~~for~~:*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~for~~ apply to the construction, alteration, repair or remodeling of the improvement.*

*(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if*

the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 24.5. Section 2.145 of the Charter of the City of Las Vegas, being chapter 244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:

Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for construction or remodeling of building or facility; conveyance of property; applicability of certain provisions to agreement for construction or remodeling of building or facility.

1. The City Council may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.

2. The City Council may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. ~~The provisions of NRS 338.010 to 338.090, inclusive, apply to any person who enters into an~~ agreement for the actual construction or remodeling of a building or facility ~~entered into~~ pursuant to subsection 1. ~~It shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.~~

4. The City Council, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the City Council had undertaken the project or had awarded the contract.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved that the Assembly concur in the Senate amendment to Assembly Bill No. 467.

Remarks by Assemblywoman Pierce.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 20, 2009

To the Honorable the Assembly:

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Copening and Wiener as a Conference Committee concerning Senate Bill No. 45.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 22, 2009

*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. 130, Amendments Nos. 792, 923; Assembly Bill No. 218, Amendments Nos. 918, 933, 931, and respectfully requests your honorable body to concur in said amendments.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

SENATE CHAMBER, Carson City, May 23, 2009

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 779 to Senate Bill No. 176; Assembly Amendment No. 716 to Senate Bill No. 227; Assembly Amendment No. 748 to Senate Bill No. 261; Assembly Amendment No. 730 to Senate Bill No. 277; Assembly Amendment No. 729 to Senate Bill No. 313; Assembly Amendment No. 644 to Senate Bill No. 333; Assembly Amendment No. 749 to Senate Bill No. 350; Assembly Amendment No. 750 to Senate Bill No. 351.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 799, 889 to Senate Bill No. 243; Assembly Amendment No. 663 to Senate Bill No. 360.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Woodhouse and Nolan as a Conference Committee concerning Senate Bill No. 54.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Parks, Care and Townsend as a Conference Committee concerning Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Parks, Nolan and Woodhouse as a Conference Committee concerning Senate Bill No. 305.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Breeden and Nolan as a Conference Committee concerning Senate Bill No. 389.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

Assemblyman Ocegüera moved that the Assembly adjourn until Tuesday, May 26, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 1:11 p.m.

Approved:

BARBARA E. BUCKLEY  
*Speaker of the Assembly*

Attest: SUSAN FURLONG REIL

*Chief Clerk of the Assembly*