THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 20, 2009

Senate called to order at 11:36 a.m.

President Krolicki presiding.

Roll called.

All present except Senator Townsend, who was excused.

Prayer by the Chaplain, Pastor Larry Unterseher.

Father God, on this beautiful morning, we give thanks for these men and women whom You have chosen to lead this great State of Nevada in these challenging times. Give them the courage, strength and wisdom to solve the issues they are to deal with today.

I pray that amid all the chatter and noise that is part of doing business, each of these leaders will take a moment to reflect on Your will and will find peace in Your love.

We pray in Your Holy Name.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 72, 151, 195, 295, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which were referred Assembly Bills Nos. 109, 163, 407, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Energy, Infrastructure and Transportation, to which were referred Senate Bills Nos. 358, 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Health and Education, to which were referred Senate Bills Nos. 293, 319, 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Education, to which were referred Senate Bills Nos. 233, 260, 378, 381, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 350, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Taxation, to which was referred Senate Bill No. 234, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 17, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 38; Assembly Bills Nos. 372, 455.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 13, 46, 48, 52, 73, 80, 85, 88, 102, 112, 181, 202, 206, 207, 247, 271, 293, 304, 311, 326, 348, 372, 432, 433, 454, 455, 472, 486, 491, 513, 515.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 378.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that through April 21, 2009, all rules be suspended, and that all Senate bills and joint resolutions returned from reprint be declared emergency measures under the Constitution and be immediately placed on third reading and final passage, next agenda, time permitting.

Motion carried.

Senator Wiener moved that Senate Bill No. 227 be taken from the Secretary's desk and placed on the Second Reading File on the second agenda.

Motion carried.

Senator Schneider moved that Senate Bill No. 243 be taken from the Secretary's desk and placed on the Second Reading File on the second agenda.

Motion carried.

Senator Care moved that Senate Bill No. 309 be taken from the General File and rereferred to the Committee on Finance.

Motion carried.

Senator Care moved that Senate Bill No. 259 be taken from the Secretary's desk and placed on the General File on the third agenda.

Motion carried.

Senator Care moved that Senate Bill No. 351 be taken from the Secretary's desk and placed on the Second Reading File on the third agenda

Motion carried.

Senator Care moved that Senate Bill No. 292 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

In compliance with a notice given on the previous day, Senator Coffin moved that the vote whereby Senate Bill No. 376 was lost be reconsidered.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 415—AN ACT relating to programs for public personnel; establishing for the next biennium the maximum amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 13.

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

Motion carried.

Assembly Bill No. 46.

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

Motion carried.

Assembly Bill No. 48.

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

Motion carried.

Assembly Bill No. 52.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 73.

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

Motion carried.

Assembly Bill No. 80.

Senator Care moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 85.

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

Motion carried.

Assembly Bill No. 88.

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

Motion carried.

Assembly Bill No. 102.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 112.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 181.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 202.

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

Motion carried.

Assembly Bill No. 206.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 207.

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

Motion carried.

Assembly Bill No. 247.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 271.

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

Motion carried.

Assembly Bill No. 293.

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

Motion carried.

Assembly Bill No. 304.

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

Motion carried.

Assembly Bill No. 311.

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

Motion carried.

Assembly Bill No. 326.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 348.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 372.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 432.

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

Motion carried.

Assembly Bill No. 433.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 454.

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

Motion carried.

Assembly Bill No. 455.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 472.

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

Motion carried.

Assembly Bill No. 486.

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

Motion carried.

Assembly Bill No. 491.

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

Motion carried.

Assembly Bill No. 513.

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

Motion carried.

Assembly Bill No. 515.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.

Bill read third time.

Roll call on Senate Bill No. 6:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 6 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 89.

Bill read third time.

Roll call on Senate Bill No. 89:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 89 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 127.
Bill read third time.
Roll call on Senate Bill No. 127:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 127 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 245.
Bill read third time.
Roll call on Senate Bill No. 245:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 245 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 251.
Bill read third time.
Roll call on Senate Bill No. 251:
YEAS—17.
NAYS—Care, Mathews, Wiener—3.
EXCUSED—Townsend.

Senate Bill No. 251 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 332.
Bill read third time.
Roll call on Senate Bill No. 332:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 332 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 355.
Bill read third time.
Roll call on Senate Bill No. 355:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 355 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 396.
Bill read third time.
Roll call on Senate Bill No. 396:
YEAS—18.
NAYS—Carlton, Mathews—2.
EXCUSED—Townsend.

Senate Bill No. 396 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 1:30 p.m.
Motion carried.

Senate in recess at 11:58 a.m.

SENATE IN SESSION

At 153 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 8, 265, 268, 335, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 47, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 309.

GARY GHIGGERI
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Senate Bill No. 72.

Bill read second time.

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

Amendment No. 461.

"SUMMARY—Authorizes a registered pharmacist *or a registered intern pharmacist* to perform certain screening tests. (BDR 54-376)"

"AN ACT relating to pharmacy; authorizing a registered pharmacist *or a registered intern pharmacist* to perform blood glucose tests ~~[in a pharmacy; requiring the State Board of Pharmacy to adopt regulations]~~ *; specifying standards* governing the performance of such tests; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes registered pharmacists *and registered intern pharmacists* to perform blood glucose tests ~~[in a pharmacy]~~ in accordance with ~~[regulations to be adopted by the State Board of Pharmacy.]~~ *standards of practice recommended by the American Association of Diabetes Educators.*

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

A registered pharmacist or a registered intern pharmacist may perform a blood glucose test ~~[in a pharmacy,]~~ using devices for monitoring approved by the Food and Drug Administration for use in the home. The ~~[Board shall adopt regulations governing the]~~ performance of such a test ~~[by a registered pharmacist.]~~ must be in compliance with standards of practice recommended by the American Association of Diabetes Educators or its successor organization.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment allows a registered intern pharmacist to perform a blood-glucose tolerance test under certain circumstances. The amendment also specifies the standards under which such a test must be conducted by a pharmacist or registered pharmacist intern.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 103.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 374.

"SUMMARY—Revises provisions relating to the Public Employees' Benefits Program. (BDR 23-422)"

"AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes certain requirements relating to the reinstatement by a retired public officer or employee, or surviving spouse thereof, of coverage under the health insurance plan of his last public employer. (NRS 287.0475) Sections 2 and 16 of this bill bifurcate the reinstatement requirements such that section 2 contains the requirements for retirees of local governments to reinstate coverage under the plans of their former local governmental employer and section 16 contains the requirements for retirees of the State to reinstate coverage under the Public Employees' Benefits Program.

Under existing law, the former local governmental employer of a retiree who participates in the Public Employees' Benefits Program is required to pay a portion of the cost of coverage of the retiree under the Program, known as a subsidy, based on the number of years of service of the retiree with the local government. (NRS 287.023) Section 4 of this bill ~~[authorizes the Executive Officer of the Program to terminate the coverage of such a retired member and his dependents if his former employer fails to pay any portion of the required subsidy. In addition, section 4]~~ revises the standard for determining the eligibility of a retiree of a local government to continue coverage upon retirement. Section 18 of this bill deems *retired* officers and employees of local governments who ~~[continued coverage at the time of their retirement]~~ *were covered under the Program* for the period beginning on October 1, 2003, and ending on June 30, 2009, to have satisfied this revised standard.

If a subsidy required to be paid by a local government to the Program for coverage of one of its retirees is delinquent by more than 90 days under existing law, the Program is authorized to request that an amount equal to the delinquent payment be withheld from the next distribution of the Local Government Tax Distribution Account to which the local government is entitled. (NRS 354.671) In addition to that remedy, section 3 of this bill specifically authorizes the Program to bring an action in court to recover such delinquent payments *and any penalties and late fees assessed by the Program on such payments*. Section 17 of this bill makes that authority applicable retroactively to allow the Program to bring actions to recover payments that were delinquent for at least 90 days on or after October 1, 2003 *, and to recover any penalties or late fees that were assessed by the Program on such payments*.

Under existing law, a local government has the option of entering into a contract with the Program to obtain coverage for its officers and employees under the Program. (NRS 287.025) Section 5 of this bill clarifies that this

option is available to a local governmental employer only if the local governmental employer agrees to obtain coverage under the Program for all of its officers and employees and their dependents, except for certain employees who are excluded based on their participation in certain other plans. Sections 9 and 14 of this bill contain similar conforming clarifications. (NRS 287.043, 287.045)

The Executive Officer of the Public Employees' Benefits Program is currently authorized to appoint certain specified personnel, who are in the unclassified service. (NRS 287.0426) Section 8 of this bill eliminates the references to the specific titles of those personnel and instead authorizes the Executive Officer to appoint such officers *and employees* in the unclassified service as are necessary for the administration of the Program.

Under existing law, the coverage of a retiree under the Program terminates if his former local governmental employer terminates its contract for coverage with the Program. (NRS 287.043) Local governmental retirees who were enrolled in the Program on November 30, 2008, received grandfather rights to retain coverage under the Program despite the cancellation by their former employer of its contract with the Program after that date. (Section 15 of Chapter 496, Statutes of Nevada 2007, p. 2882) Section 9 of this bill clarifies the existing law relating to such a termination of coverage to specifically exclude its applicability to retirees who hold those grandfather rights. Section 9 also clarifies the authority of the Board of the Program to adopt regulations, including regulations relating to the coverage provided by the Program to active and retired officers and employees of local governments. Section 19 of this bill ratifies any regulations adopted by the Board on or after October 1, 2003, as conforming to the statutory authority of the Board on the date of their adoption. In addition, section 9 requires the Board to adopt regulations relating to the procedures for: (1) payments by local governments of the subsidies for coverage of their retirees under the Program; and (2) termination of such coverage as a result of delinquent subsidy payments.

Effective ~~[July 1, 2010,]~~ *November 1, 2009*, section 10 of this bill eliminates the requirement that the Program offer a flexible benefit plan to participants in the Program who are provided coverage under Medicare. (NRS 287.043)

Section 11 of this bill clarifies that money received by the Program for the purpose of offsetting the costs of providing coverage to current and future state retirees is required to be deposited in the State Retirees' Health and Welfare Benefits Fund instead of the Fund for the Public Employees' Benefits Program. (NRS 287.0435, 287.04362)

Under existing law, a state agency is required to pay to the Program a certain portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to authorize deductions from their compensation for the remaining portion of the costs of coverage.

(NRS 287.046) In addition, existing law authorizes the payment by state agencies, within the limits set biennially by law, of a portion of the costs of coverage for their officers and employees under the Program from authorized or appropriated money. (NRS 287.044) Section 13 of this bill gives the Board of the Program the authority to allocate money paid by participating state agencies for the costs of coverage under the Program between officers and employees and their dependents. Section 13 also consolidates the requirements relating to the payment of the costs of coverage for active state officers and employees under the Program. As a result of this consolidation, section 15 only addresses the payment of costs of coverage for state retirees under the Program. For the purposes of calculating the amount of the subsidy for the coverage of a state retiree under the Program, section 15 also expands the prohibition against the proration of any year of service from years of state service to years of service by the retiree with a local governmental employer.

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:*

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Program, if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of his intent to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

➥ *The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of his intent to reinstate the insurance.*

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. Reinstatement of insurance pursuant to subsection 1 excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 3. *1. In addition to the procedure set forth in NRS 354.671, if a local governmental agency is delinquent by more than 90 days on an amount due to the Program pursuant to paragraph (b) of subsection 4 of NRS 287.023* ~~[,]~~ *or any penalty or late fee authorized to be assessed by the Program on such an amount, the Program may bring an action to recover* ~~[that amount]~~ *those amounts in a district court of this State. The action must be brought within 6 years after the date on which the payment , penalty or late fee was delinquent for more than 90 days.*

2. In such an action, a certificate issued by the Program documenting the amount of the delinquent payment and any penalty or late fee and the length of ~~[its]~~ *their delinquency is prima facie evidence of:*

(a) The amount of the delinquent payment ~~[,]~~ *, penalty or late fee;*

(b) The period of the delinquency; and

(c) Compliance by the Program with all the procedures required by law relating to the computation and determination of the ~~[amount]~~ *amounts due.*

Sec. 4. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, ~~[at the time of his retirement,]~~ *during the period in which he served as an officer or employee,* was *eligible to be* covered or had ~~[his]~~ dependents *who were eligible to be* covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has

the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for retired persons who ~~[continue coverage]~~ *are covered* under the Public Employees' Benefits Program pursuant to subsection 1 or who subsequently reinstate coverage under the Public Employees' Benefits Program pursuant to NRS 287.0475, as the State pays pursuant to subsection ~~[2]~~ *1* of NRS 287.046 for persons retired ~~[from]~~ *with* state service who ~~[have continued to]~~ participate in the Public Employees' Benefits Program. ~~*[The Executive Officer of the Public Employees' Benefits Program may, in accordance with regulations adopted pursuant to NRS 287.043, terminate the coverage of any retired person, and his dependents, for whom any portion of the cost of coverage owed pursuant to this paragraph is not fully paid. Such a decision of the Executive Officer is effective upon notification and is a final decision, which may not be appealed to the Board of the Public Employees' Benefits Program and is not subject to judicial review.]*~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 5. NRS 287.025 is hereby amended to read as follows:

287.025 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 may, in addition to the other powers granted in NRS 287.010, 287.015 and 287.020:

(a) Negotiate and contract with the Board of the Public Employees' Benefits Program to secure *exclusive* group insurance for *all of* its officers and employees and their dependents *, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043,* by participation in the Public Employees' Benefits Program.

(b) Negotiate and contract with another county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada to secure group insurance for its officers and employees and their dependents by participation in any group insurance plan established or to be established by the other local governmental agency.

(c) To secure group health, life or workers' compensation insurance for its officers and employees and their dependents, participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to secure such insurance for its members from an insurer licensed pursuant to the provisions of title 57 of NRS.

(d) In addition to the provisions of paragraph (c), participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to:

(1) Facilitate contractual arrangements for the provision of medical services to its members' officers and employees and their dependents and for related administrative services.

(2) Procure health-related information and disseminate that information to its members' officers and employees and their dependents.

2. Each contract negotiated pursuant to paragraph (a) or (b) of subsection 1:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner of Insurance.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

Sec. 6. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, *and section 2 of this act* do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or subsection 4 of NRS 287.023 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his wages or salary in payment of premiums or contributions therefor.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.0426 is hereby amended to read as follows:

287.0426 1. The Executive Officer may ~~[appoint a Quality Control Officer, Operations Officer, Chief Financial Officer, Information Technology Systems Officer and Executive Assistant,]~~ *, within the limits of legislative appropriations and other available money, appoint such officers* and employees *as are necessary for the administration of the Program,* who are in the unclassified service of the State and serve at the pleasure of the Executive Officer. The appointment and dismissal of ~~[the Quality Control Officer]~~ *an officer in charge of quality control* are subject to the approval of the Board.

2. ~~[The Quality Control Officer, Operations Officer, Chief Financial Officer and Information Technology Systems Officer]~~ *Each officer appointed pursuant to subsection 1 who is placed in charge of quality control, operations, finance or information technology* must ~~[each]~~ be a graduate of a 4-year college or university with a degree that is appropriate to their respective responsibilities or possess equivalent experience as determined by the Board.

3. ~~[The Quality Control Officer, Operations Officer, Chief Financial Officer, Information Technology Systems Officer and Executive Assistant]~~ *Officers and employees appointed pursuant to subsection 1* are entitled to

annual salaries fixed by the Board. The salaries of these *officers and* employees are exempt from the limitations set forth in NRS 281.123.

4. The Executive Officer may employ such staff in the classified service of the State as are necessary for the performance of his duties, within limits of legislative appropriations or other available money.

Sec. 9. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include:

(I) A program relating to group life, accident or health insurance, or any combination of these; and

(II) A plan that offers flexibility in benefits for participants in the Program who are provided coverage by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

➥ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with 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 wishes to obtain *exclusive* group insurance for *all of* its active and retired officers and employees and their dependents *, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2,* by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and

retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change his policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS ~~[287.0402 to 287.049,]~~ *287.010 to 287.245*, inclusive, *and sections 2 and 3 of this act*, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency *whose last continuous period of enrollment with the Program began after November 30, 2008*, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants; ~~[and]~~

(4) Specific procedures for the determination of contested claims ~~[.]~~ *;*

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

(i) Appoint an independent certified public accountant. The accountant shall:

(1) Provide an annual audit of the Program; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

(j) Appoint an attorney who specializes in employee benefits. The attorney shall:

(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:

(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.

(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison

of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

(e) A discussion of activities of the Board concerning purchasing coalitions.

4. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

5. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 10. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include ~~[~~:

~~(I) A]~~ *a* program relating to group life, accident or health insurance, or any combination of these; and

~~[(II) A plan that offers flexibility in benefits for participants in the Program who are provided coverage by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; and]~~

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

➥ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with 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 wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2, by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change his policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, *and sections 2 and 3 of this act*, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

(i) Appoint an independent certified public accountant. The accountant shall:

(1) Provide an annual audit of the Program; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

(j) Appoint an attorney who specializes in employee benefits. The attorney shall:

(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:

(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the

Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.

(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

(e) A discussion of activities of the Board concerning purchasing coalitions.

4. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

5. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 11. NRS 287.0435 is hereby amended to read as follows:

287.0435 1. ~~[All]~~ *Except as otherwise provided in subsection 4 of NRS 287.04362, all* money received for the Program, including, without limitation, premiums and contributions, must be deposited in the State Treasury for credit to the Fund for the Public Employees' Benefits Program which is hereby created as a trust fund. The Program Fund must be accounted

for as an internal service fund. Payments into and disbursements from the Program Fund must be so arranged as to keep the Program Fund solvent at all times.

2. The money in the Program Fund must be invested as other money of the State is invested and any income from investments paid into the Program Fund for the benefit of the Program Fund.

3. Disbursements from the Program Fund must be made as any other claims against the State are paid and may only be made for the benefit of the participants in the Program.

4. The State Treasurer may charge a reasonable fee for his services in administering the Program Fund, but the State, the State General Fund and the State Treasurer are not liable to the Program Fund for any loss sustained by the Program Fund as a result of any investment made on behalf of the Program Fund or any loss sustained in the operation of the Program.

5. The Board shall deposit any disbursement received from the Program Fund into an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. Claims that have been submitted to the Program and approved must be paid from the account, and any refund of such a claim must be deposited into the account.

Sec. 12. NRS 287.0436 is hereby amended to read as follows:

287.0436 1. The State Retirees' Health and Welfare Benefits Fund is hereby created as an irrevocable trust fund.

2. The purpose of the Retirees' Fund is to account for the financial assets designated to offset the portion of the current and future costs of health and welfare benefits paid pursuant to subsection ~~[2]~~ *1* of NRS 287.046.

Sec. 13. NRS 287.044 is hereby amended to read as follows:

287.044 1. ~~[A part of the cost of the premiums or contributions for group insurance provide by the Program, not to exceed the amount specified by law, applied to both group life and group accident or health coverage, for each state officer, except a Senator or Assemblyman, or employee electing to participate in the Program, may be paid by the participating state agency which employs the officer or employee in whose behalf that part is paid from money appropriated to or authorized for that participating state agency for that purpose. Participation by the State in the cost of premiums or contributions must not exceed the amounts specified by law.]~~ *Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.*

2. A Senator or Assemblyman who elects to participate in the Program shall pay the entire premium or contribution for his insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a

premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid pursuant to subsection 1.

4. If a state officer or employee chooses to cover his dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, he must pay the difference between the amount of the premium or contribution for the coverage for himself and his dependents and the amount paid by the participating state agency that employs the officer or employee.

~~[2.]~~ *5.* A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to this section between the cost of premiums and contributions for group insurance for each state officer or employee, except a Senator or Assemblyman, and their dependents.

Sec. 14. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences his employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment ~~[.]~~ *, unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.*

4. Every Senator and Assemblyman is eligible to participate in the Program on the first day of the month following the 90th day after his initial term of office begins.

5. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to 689B.590, inclusive, and if the coverage under the Program is provided by a health maintenance organization

authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

Sec. 15. NRS 287.046 is hereby amended to read as follows:

287.046 1. ~~[Except as otherwise provided in subsection 6, any active state officer or employee who elects to participate in the Program may participate, and the participating state agency that employs the officer or employee shall pay the State's share of the cost of the premiums or contributions for the Program from money appropriated or authorized as provided in NRS 287.044. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of a premium or contribution for health insurance must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid by the participating state agency that employs the employee.~~

~~2.]~~ The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service and who elect to participate in the Program. The money so assessed must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for state retirees. Except as otherwise provided in subsection ~~[3,]~~ *2,* the portion to be paid to the Program from the Retirees' Fund on behalf of persons who have retired with state service and who elect to participate in the Program must be equal to a portion of the cost for each retiree and his dependents who are enrolled in the plan, as defined for each year of the plan by the Program. For persons who retire from the State on or after January 1, 1994, adjustments to the portion paid by the Retirees' Fund must be as follows:

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

(b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~[3.]~~ *2.* If the amount calculated pursuant to subsection ~~[2]~~ *1* exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~[4.]~~ *3.* For the purposes of subsection ~~[2.]~~ *1:*

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~[state]~~ service.

~~[5.]~~ *4.* The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and his dependents to the retired participant and to his dependents who elect to continue coverage under the Program after his death.

~~[6. A Senator or Assemblyman who elects to participate in the Program shall pay the entire premium or contribution for his insurance.]~~

Sec. 16. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A *retired* public officer or employee ~~[who has retired pursuant]~~ *or the surviving spouse of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:*

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, *from a participating state agency* or *was enrolled in* a retirement program provided pursuant to NRS 286.802 ~~[, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:~~

~~(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or~~

~~(b) Under the Program, if the last public employer of the retired officer or employee was the State of Nevada or if the last public employer of the retired officer or employee participates in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.]~~ *; or*

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement.

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice *to the Program* of his intent to reinstate the insurance ~~[to the last public employer of the public officer or employee]~~ not later than ~~[January 31]~~ *March 15* of an even-numbered year;

(b) Accepting the ~~[public employer's]~~ *Program's* current ~~[program or]~~ plan of insurance and any subsequent changes thereto; and

(c) Paying any portion of the premiums or contributions ~~[of the public employer's program or plan of insurance,]~~ *for coverage under the Program,* in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~[➥ The last public employer shall give the insurer notice of the reinstatement no later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of his intent to reinstate the insurance.]~~

3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

~~[4. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.]~~

Sec. 17. Section 3 of this act applies retroactively to payments owed pursuant to paragraph (b) of subsection 4 of NRS 287.023 *and any penalty or late fee authorized to be assessed by the Program on such a payment* that were delinquent for at least 90 days on and after October 1, 2003.

Sec. 18. ~~[Officers]~~ *Retired officers* and employees of local governments who ~~[continued coverage]~~ *were covered under the Public Employees' Benefits Program* pursuant to NRS 287.023 ~~[at the time of their retirement]~~ for the period beginning on October 1, 2003, and ending on June 30, 2009, are hereby deemed to have satisfied the requirements for eligibility set forth in subsection 1 of NRS 287.023, as amended by section 4 of this act, and the provisions of this act are retroactive to that extent.

Sec. 19. The Legislature hereby ratifies all regulations adopted by the Board of the Public Employees' Benefits Program on and after October 1, 2003, as conforming to the statutory authority of the Board on the date of their adoption.

Sec. 20. 1. This section and sections 1 to 9, inclusive, and 11 to 19, inclusive, of this act become effective on July 1, 2009.

2. *Section 9 of this act expires by limitation on October 31, 2009.*

3. Section 10 of this act becomes effective on ~~[July 1, 2010.]~~ *November 1, 2009.*

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Wodhouse.

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

Thank you, Mr. President. Amendment No. 374 amends Senate Bill No. 103 to provide the Public Employees' Benefits Program (PEBP) with additional authority to collect penalties and interest on delinquent payments. The amendment also allows coverage to continue for retirees of employers that are delinquent in their payments.

Specifically, the amendment authorizes PEBP to bring court action to collect penalties and interest, in addition to collecting any delinquent payments. It provides for retroactive authority to collect penalties and interest owed, in addition to any delinquent subsidy payments. It deletes the

authority of the Executive Officer to terminate coverage for retirees of local government employers who are delinquent in payments to the plan. It expands the authority of the Executive Officer to make appointments of employees as may be necessary for administering the program.

Senator Mathews disclosed that she is a member of the Public Employees Retirement System.

Senator Carlton disclosed that her husband is a state employee.

Senator Wiener disclosed that she participates in the Public Employees Retirement System.

Senator Breeden disclosed that she is a member of Public Employees Retirement System.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 151.

Bill read second time.

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

Amendment No. 419.

"SUMMARY—Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. (BDR 54-702)"

"AN ACT relating to contractors; providing for the payment of claims from the Recovery Fund of the State Contractors' Board under certain circumstances to an owner who has paid a subcontractor or materialman to obtain the release of a lien on his property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 4 of this bill ~~[require]~~ *authorize* the State Contractors' Board to suspend or revoke the license of a residential contractor when the Recovery Fund reimburses a property owner who must pay a subcontractor or materialman to obtain the release of a lien on the property after the residential contractor has not paid the subcontractor or materialman money received for the work or materials rendered. (NRS 624.3012, 624.530) Section 4 also ~~[requires]~~ *authorizes* the Board not to issue a license to, or renew or reinstate a license of, a residential contractor so disciplined.

Section 2 of this bill expands the definition of an "injured person," for the purposes of eligibility to make a claim against the Recovery Fund, to include an owner who is required to pay a second time to obtain the release of a lien recorded against his property for the value of work or materials rendered for a construction project on the property when a contractor has previously received payment for the work or materials and has, in turn, failed to pay for the work or materials. (NRS 624.420)

Section 3 of this bill revises provisions relating to the authorized use of the money in the Recovery Fund to authorize the payment of claims made by "injured persons" as defined in section 2. (NRS 624.470)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 624.3012 is hereby amended to read as follows:

624.3012 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Diversion of money or property received for the completion of a specific construction project or operation or for a specified purpose in the completion of any construction project or operation to any other construction project or operation, obligation or purpose.

2. Willful or deliberate failure by any licensee or agent or officer thereof to pay any money when due for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient money therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased . ~~[, or the]~~

3. The false denial *by any licensee or agent or officer thereof* of any ~~[such]~~ amount due , or the validity of the claim thereof *, for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient money therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased,* with intent to secure a discount upon such indebtedness or with intent to injure, delay or defraud the person to whom such indebtedness is due.

~~[3.]~~ *4.* Failure to obtain the discharge or release of any lien recorded against the property to be improved by a construction project for the price of any materials or services rendered to the project by order of the contractor, when the contractor has received sufficient money therefor as payment for the project, within 75 days after the recording of the lien.

Sec. 2. NRS 624.420 is hereby amended to read as follows:

624.420 "Injured person" means an owner who ~~[is]~~ *:*

1. Is damaged by the failure of a residential contractor to perform qualified services adequately ~~[.]~~ *; or*

2. Pays to obtain a release of a lien:

(a) Which is recorded:

(1) For the value of any materials or services rendered in connection with a construction project; and

(2) Against property to be improved by the project; and

(b) When a licensee or agent or officer thereof:

(1) Willfully or deliberately fails to pay any money when due for the materials or services; and

(2) Has received sufficient money as payment for the materials or services.

Sec. 3. NRS 624.470 is hereby amended to read as follows:

624.470 1. Except as otherwise provided in subsection 3, in addition to the fee for a license required pursuant to NRS 624.280, a residential

contractor shall pay to the Board an assessment not to exceed the following amount, if the monetary limit on his license is:

Not more than $1,000,000	$200 per biennium
More than $1,000,000 but limited	500 per biennium
Unlimited	1,000 per biennium

2. The Board shall administer and account separately for the money received from the assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."

3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.

4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by ~~[owners who are damaged by the failure of a residential contractor to perform qualified services adequately,]~~ *injured persons,* as provided in NRS 624.400 to 624.560, inclusive.

Sec. 4. NRS 624.530 is hereby amended to read as follows:

624.530 *1.* The provisions of NRS 624.400 to 624.560, inclusive, do not limit the authority of the Board to take disciplinary action against a residential contractor.

2. If the Board or its designee finds that an owner recovered from the account an amount paid by the owner to obtain a release of a lien recorded against property to be improved by a construction project as a result of a residential contractor's act or omission as described in subsection 2 of NRS 624.3012, in addition to any disciplinary action that the Board takes against the residential contractor pursuant to subsection 1, the Board ~~*[shall:]*~~ *may:*

(a) Suspend or revoke the license of the residential contractor; and

(b) Prohibit the issuance, reinstatement or renewal of a license to the residential contractor and any officer, director, associate or partner thereof, unless the residential contractor or any officer, director, associate or partner thereof repays to the account or the owner, or both, as appropriate, any amount paid out of the account or by the owner as a result of the act or omission of the residential contractor.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment removes the requirement that the State Contractors' Board suspend or revoke a license under certain circumstances and instead authorizes the Board to take such action. We are going from a "shall" to a "may."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 195.

Bill read second time.

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

Amendment No. 462.

"SUMMARY—Revises provisions governing workers' compensation. (BDR 53-1077)"

"AN ACT relating to industrial insurance; revising provisions relating to examinations and permanent partial disabilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this]~~ *This* bill requires that the Fifth Edition, rather than the most recent edition, of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* must be applied in all examinations for a permanent partial disability. ~~[Sections 1 and 2 of this bill also eliminate the requirement that no factor other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation.]~~

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

Section 1. NRS 616C.110 is hereby amended to read as follows:

616C.110 1. For the purposes of NRS 616B.557, 616B.578, 616B.587, 616C.490 and 617.459 ~~[~~:

~~(a) Not]~~ , *not* later than August 1, 2003, the Division shall adopt regulations incorporating the American Medical Association's Guides to the Evaluation of Permanent Impairment, 5th edition, by reference. The regulations:

~~[(1)]~~ *(a)* Must ~~[become effective on October 1, 2003; and~~

~~(2) Must be applied to all examinations for a permanent partial disability that are conducted on or after October 1, 2003, regardless of the date of the injury, until regulations incorporating the 6th edition by reference have become effective pursuant to paragraph (b).~~

~~(b) Beginning with the 6th edition and continuing for each edition thereafter, the Division shall adopt regulations incorporating the most recent edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment by reference. The regulations:~~

~~(1) Must become effective not later than 18 months after the most recent edition is published by the American Medical Association; and~~

~~(2)]~~ *provide that the American Medical Association's Guides to the Evaluation of Permanent Impairment, Fifth Edition, must be applied to all examinations; and*

(b) Must be applied to all examinations for a permanent partial disability that are conducted on or after the effective date of the regulations, regardless of the date of injury . ~~[, until regulations incorporating the next edition by reference have become effective pursuant to this paragraph.]~~

2. After adopting the regulations required pursuant to subsection 1, the Division may amend those regulations as it deems necessary, except that the amendments to those regulations:

(a) Must be consistent with the ~~[edition]~~ *Fifth Edition* of the American Medical Association's Guides to the Evaluation of Permanent Impairment ; ~~[most recently adopted by the Division;]~~ ~~*[; and]*~~

(b) Must not incorporate any contradictory matter from any other edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment ~~*[.]*~~ ; and

(c) Must not consider any factors other than the degree of physical impairment of the whole man in calculating the entitlement to compensation.

3. If the ~~[edition]~~ *Fifth Edition* of the American Medical Association's Guides to the Evaluation of Permanent Impairment ~~[most recently adopted by the Division]~~ contains more than one method of determining the rating of an impairment, the Administrator shall designate by regulation the method from that edition which must be used to rate an impairment pursuant to NRS 616C.490.

Sec. 2. ~~[NRS 616C.490 is hereby amended to read as follows:~~

~~616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole man" are equivalent terms.~~

~~2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:~~

~~(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.~~

~~(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.~~

~~3. If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability,~~

~~the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's~~ Guides to the Evaluation of Permanent Impairment ~~as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.~~

~~4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:~~

~~(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and~~

~~(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.~~

~~➥ The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer's request.~~

~~5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss.~~ [No factors other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation for a permanent partial disability.]

~~6. The rating physician or chiropractor shall provide the insurer with his evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:~~

~~(a) Of the compensation to which he is entitled pursuant to this section; or~~

~~(b) That he is not entitled to benefits for permanent partial disability.~~

~~7. Each 1 percent of impairment of the whole man must be compensated by a monthly payment:~~

~~(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;~~

~~(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;~~

~~(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and~~

~~(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.~~

~~➥ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.~~

~~8. Compensation benefits may be paid annually to claimants who will be receiving less than $100 a month.~~

~~9. Where there is a previous disability, as the loss of one eye, one hand, one foot [,] or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the~~

~~percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.~~

~~10. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.~~

~~11. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.~~

~~12. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.~~] *(Deleted by amendment.)*

Sec. 3. This act becomes effective upon passage and approval.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment removes the reference in the bill to eliminating the requirement that no factor other than the injured worker's degree of physical impairment can be used in evaluating entitlement to permanent partial-disability compensation. To put that into plain language, we are going back to the scheme that we are working under now.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 227.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 72.

"SUMMARY—Revises certain provisions concerning identity theft. (BDR 52-72)"

"AN ACT relating to security of personal information; requiring the use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires that a data collector use encryption to protect information that is either transmitted electronically or contained on a data storage device that is moved beyond the controls of the data collector. Section 1 also renders a data collector not liable for a breach of the security of the system data in certain circumstances.

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

Section 1. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A data collector in this State shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system

of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information.

2. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

3. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

Sec. 2. NRS 597.970 is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTION

597.970 Restrictions on transfer of personal information through electronic transmission.

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment changes the effective date to January 1, 2010.

Amendment adopted.

The following amendment was proposed by Senator Wiener:

Amendment No. 389.

"SUMMARY—Revises certain provisions concerning identity theft. (BDR 52-72)"

"AN ACT relating to security of personal information; requiring the *compliance with certain standards or the* use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires that a data collector *comply with certain standards or* use encryption to protect information that is either transmitted electronically or contained on a data storage device that is moved beyond the controls of the data collector. Section 1 also renders a data collector not liable for a breach of the security of the system data in certain circumstances.

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

Section 1. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information.

~~[2.]~~ 3. *A data collector shall not be liable for damages for a breach of the security of the system data if:*

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

~~[3.]~~ 4. *As used in this section:*

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) "Payment card" has the meaning ascribed to it in NRS 205.602.

Sec. 2. NRS 597.970 is hereby repealed.

TEXT OF REPEALED SECTION

597.970 Restrictions on transfer of personal information through electronic transmission.

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment requires that a data collector in Nevada who accepts a payment card in connection with the sale of goods or services must comply with national standards.

Amendments adopted.

Bill ordered reprinted and engrossed and to third reading.

Senate Bill No. 233.

Bill read second time.

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

Amendment No. 300.

"SUMMARY— ~~[Provides for the free immunization of certain children against certain diseases within limits of available money.]~~ *Revises provisions relating to immunizations.* (BDR 40-105)"

"AN ACT relating to public health; *creating the Nevada Advisory Committee on Vaccines; requiring manufacturers of immunizations to submit certain information to the Director of the Department of Health and Human Services;* requiring the free immunization of certain children against certain diseases within the limits of legislative appropriations; *limiting the rates manufacturers of immunizations may charge for certain immunizations sold to providers of health care in this State;* making ~~[appropriations to pay for the costs of such immunizations;]~~ *an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Health Division of the Department of Health and Human Services to administer provisions governing the administration of public health, which includes the establishment of immunization programs. (NRS 439.010) The Health Division has established the Nevada Immunization Program and the Vaccines for Children Program to increase the rate of immunization for persons in this State. Sections 2-4 of this bill create the Nevada Advisory Committee on Vaccines to advise and make recommendations to the Health Division concerning immunization programs in this State and to develop and implement public policy regarding the immunization of persons in this State.

Existing law provides that, subject to certain exceptions, a child must be immunized against certain diseases before the child may be enrolled in a public or private school or admitted to a child care facility in this State. (NRS 392.435, 394.192, 432A.230) Existing law also requires the county, city, town and district boards of health to hold clinics for the immunization of children not less than 1 month before the opening date of the school year. (NRS 439.535)

Section ~~[1]~~ *4* of this bill requires the Health Division ~~[of the Department of Health and Human Services]~~ and the county, city, town and district boards of health, within the limits of legislative appropriation, to establish a program that provides certain immunizations, without charging for the cost of the

vaccine, booster or medicine, for each child if: (1) the child is a resident of this State; (2) the child is less than 4 years of age; and (3) the cost of the immunization is not eligible for payment or reimbursement by an insurer, health plan, health benefit plan or program of public assistance. Section ~~[1]~~ *4* permits charges to be assessed for the cost of the administration of the vaccine, booster or medicine to the child, including the cost of any fee for providing medical or professional services.

Section 6 of this bill requires a manufacturer which sells immunizations in this State to prepare and submit to the Director of the Department an annual report regarding the actual cost to the manufacturer of producing each immunization which the manufacturer sells in this State.

Section 7 of this bill limits the amount that a manufacturer may charge for certain immunizations sold to providers of health care in this State.

Section ~~[2]~~ *8* of this bill makes an appropriation to the Department of Health and Human Services for the provision of these immunizations in the next biennium. The Department must allocate the appropriations among the Health Division and the county, city, town and district boards of health in a manner that will most effectively provide for the required immunizations.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. As used in sections 2, 3 and 4 of this act, unless the context otherwise requires, "Advisory Committee" means the Nevada Advisory Committee on Vaccines created pursuant to section 3 of this act.

Sec. 3. 1. There is hereby created the Nevada Advisory Committee on Vaccines consisting of seven members appointed by the Director as follows:

(a) Five members who are persons knowledgeable in promoting immunizations and educating the public concerning immunizations;

(b) One member who is a representative of the Nevada Chapter of the American Academy of Pediatrics or its successor organization; and

(c) One nonvoting member who is a representative of a program of immunizations carried out by the Health Division.

2. Members of the Advisory Committee must not be employees of or otherwise receive compensation from a person related to the pharmaceutical industry.

3. The term of each member is 2 years. A member may be reappointed.

4. Members of the Advisory Committee serve without compensation.

5. A majority of the voting members of the Advisory Committee constitutes a quorum for the transaction of business, and a majority of the quorum is required for action taken by the Advisory Committee.

6. The Advisory Committee shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its members; and

(b) Meet at the call of the Chairman or a majority of its members.

Sec. 4. *The Advisory Committee created pursuant to section 3 of this act shall:*

1. Advise and make recommendations to the Health Division concerning the programs of immunization in this State; and

2. Develop and implement public policy regarding the immunization of persons in this State, including, without limitation:

(a) Identifying the costs associated with immunizations and reviewing alternative means to pay the costs of immunizations;

(b) Identifying and reviewing obstacles to immunizing persons in this State and methods to ensure that the public has adequate access to immunizations; and

(c) Identifying and reviewing methods to increase the rate of immunization of persons in this State.

~~[Section 1.]~~ *Sec. 5.* NRS 439.535 is hereby amended to read as follows:

439.535 *1. Within the limits of legislative appropriation, the Health Division and the county, city, town and district boards of health shall establish a program that provides for the immunization of each eligible child for the diseases enumerated in NRS 392.435, 394.192 and 432A.230 without charging for the cost of the vaccine, booster or medicine used for the immunization if the cost of the vaccine, booster or medicine is not eligible for payment or reimbursement by an insurer, health plan, health benefit plan or program of public assistance, including, without limitation, Medicaid or the Children's Health Insurance Program as defined in NRS 422.021. For the purposes of this subsection, a child is an "eligible child" if the child is a resident of this State and is less than 4 years of age.*

2. In carrying out the program established pursuant to subsection 1, the Health Division and the county, city, town and district boards of health and any person who is qualified to administer the vaccine, booster or medicine used for the immunization may charge for the cost of the administration of the vaccine, booster or medicine to the child, including the cost of any fee for providing medical or professional services.

3. The Department shall allocate any money appropriated by the Legislature for the program established pursuant to subsection 1 among the Health Division and the county, city, town and district boards of health in a manner that the Department determines will most effectively provide for the immunizations required by this section.

4. Clinics for the immunization of children for the diseases enumerated in NRS 392.435, 394.192 and 432A.230 must be held by the county, city, town ~~[or]~~ *and* district boards of health ~~[, as the case may be, not]~~ *:*

(a) Not less than 1 month before the opening date of the school year in the respective counties, cities and towns within the State ~~[.~~

~~2. Qualified personnel of any clinic]~~ *; and*

(b) At such other times as necessary to most effectively provide for the immunizations required by this section.

5. Any person who *is qualified to* administer ~~[vaccines or boosters]~~ *a vaccine, booster or medicine used for an immunization* pursuant to this section *and who administers such a vaccine, booster or medicine to a child,* in good faith and without gross negligence ~~[are]~~ *, is* immune from civil and criminal liability.

6. As used in this section, "diseases enumerated in NRS 392.435, 394.192 and 432A.230" means the diseases enumerated in those sections and all other diseases for which immunization is required by the local board of health or the State Board of Health pursuant to the authority granted by those sections.

Sec. 6. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 7. 1. A manufacturer which sells immunizations in this State shall prepare and submit to the Director an annual report regarding the actual cost to the manufacturer of producing each immunization which the manufacturer sells in this State. The cost of the immunizations must be reported in the form prescribed by the Director for a unit dose or package of units, as applicable.

2. The Department shall annually post on the Internet website maintained by the Department the information provided by each manufacturer pursuant to subsection 1.

Sec. 8. 1. A manufacturer of an immunization for the diseases enumerated in NRS 392.435, 394.192 and 432A.230 shall not charge for such an immunization sold to a provider of health care in this State a rate which is greater than 115 percent of the rate charged to the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for the purchase of that immunization.

2. As used in this section, "diseases enumerated in NRS 392.435, 394.192 and 432A.230" means the diseases enumerated in those sections and all other diseases for which the immunization is required by a local board of health or the State Board of Health pursuant to the authority granted by those sections.

~~[Sec. 2.]~~ *Sec. 9.* 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services to carry out the program of immunizations required pursuant to NRS 439.535, as amended by section ~~[1]~~ *4* of this act:

For the Fiscal Year 2009-2010 .....~~[$53,000,000]~~ *$185,260*

For the Fiscal Year 2010-2011 .....~~[$53,000,000]~~ *$224,343*

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2010, and September 16, 2011, respectively, by either the

entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2010, and September 16, 2011, respectively.

~~[Sec. 3.]~~ *Sec. 10.* This act becomes effective on July 1, 2009.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse, Raggio, Washington and Horsford.

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

SENATOR WOODHOUSE:

Amendment No. 300 revises the following provisions to Senate Bill No. 233. The amendment creates the Nevada Advisory Committee on Vaccines to advise and make recommendations to the Health Division concerning immunizations programs in Nevada and to develop and implement public policy regarding the immunization of persons in Nevada.

The amendment requires manufacturers that sell immunizations in Nevada to prepare and submit to the Director of DHHS an annual report regarding the actual cost to the manufacturer of producing the immunizations they sell in Nevada.

It limits the amount that a manufacturer may charge for certain immunizations sold to providers of health care in Nevada.

SENATOR RAGGIO:

In section 8, it seems to provide for price control on the manufacture of a drug for immunization. What is the justification for this? Why are we putting a price control on what the manufacturer of immunization medications can charge?

SENATOR WOODHOUSE:

The Senator is correct. We are recommending this be rereferred to the Senate Committee on Finance for further discussion.

SENATOR RAGGIO:

I am not certain I understand this response. Since I did not hear the testimony on this bill, I find it unusual for us to put price controls on someone's product. I am concerned if this cap is placed on immunization, is there assurance the manufacturers will still provide this essential medication? This is a 15-percent cap. It seems this might be a disincentive to obtaining the necessary immunizations from the manufacturers.

SENATOR WOODHOUSE:

I take the Senator's comments seriously, and this is why we wanted to send this bill to Senate Finance for further discussion. Yes, this amendment does have a cap, and unfortunately, there was not a lot of time in the committee because of the late introduction of the bill for further discussion on it. We are open to additional conversations on the bill.

SENATOR WASHINGTON:

I was part of the committee, and I had some concerns with the bill. My first concern was with the cap that was placed on the manufacturers concerning immunization drugs. The cap was set at 15 percent based on the Center for Disease Control rate. This cap comes from the advisory committee. Are those caps authorized or put into regulations by this advisory committee?

SENATOR WOODHOUSE:

The advisory committee is a new committee. It is in the amendment. The advisory committee has not yet been formed because it is part of the new program being started.

SENATOR WASHINGTON:

Is the advisory committee going to send recommendations for regulations on the price caps of these immunizations?

SENATOR WOODHOUSE:

The purpose of the advisory committee is to advise and make recommendations to the Health Division concerning the programs but not the price cap you are discussing.

SENATOR WASHINGTON: There were many questions asked during the committee, and they were not answered satisfactorily. I am concerned about the free immunization program that is provided to the Health Districts. Will this amendment affect those programs for the underprivileged children?

SENATOR WOODHOUSE:

The intent of the bill is to provide free immunizations to children who fall through the cracks. They are the ones who are not covered by insurance; the ones who are not covered through Medicaid nor through Nevada Checkup. That is the genesis of the bill and the main purpose of the bill. The advisory committee is an attempt to have an agency that will do the proper research and set policy.

SENATOR WASHINGTON:

My concern is that there are programs that are already in place that provide free immunization or free drugs to our health districts to provide immunizations for our children. I am afraid that, with this bill and amendment setting a cap on these drugs, the manufacturers are going to withdraw those drugs from the programs to which they are currently providing free drugs. This amendment and the bill set a bad policy for the willingness of the manufacturers to participate in a program that is a free give-a-way already.

SENATOR HORSFORD:

I rise in support of the amendment and the bill for several reasons. The provision in section 8 of the amendment insures that Nevada is not charged more than what is paid for by the Center for Disease Control for the same immunizations. Nevada ranks 50th in the Nation for the rate of children that are properly immunized. This bill seeks to address that issue. As the amendment proposes to establish this advisory committee, they need to do so in such a way that the costs to immunize those infants and children is not greater than 115 percent of the rate charged to the Center for Disease Control. While I respect those who have spoken against the amendment, there are precedents for establishing caps in public policy. We have done this on medical fees. Medical records requested by a patient cannot exceed a certain amount per page based on the fact that we do not want those costs to exceed a reasonable rate. We have established a cap on the fee for smog, a requirement for us to stay in compliance with federal rules around air quality. While I respect those who feel this may be onerous or it may impose a hardship on manufacturers, the intent is to help improve the rate of immunizations among infants and children and to do so in a way that establishes a reasonable rate for reimbursement or payment of immunizations based on those that are established by the Center for Disease Control. I urge this Body's adoption of this amendment.

SENATOR RAGGIO:

I am not part of an effort to kill the amendment or the bill. I am unaware of any serious effort this Body has ever made to put a price control on a product. The examples mentioned were not on products. My concern is not in the helping of the manufacturer, but it is that if a price control is placed on something this essential, that whether it is tied to the Center for Disease Control or not, I am not aware that other states have similar restrictions on this. My concern is that it could be a disincentive for them to provide something as essential as immunization. Price control over a product is a last resort. We did it during WWII, but we are not in that type of situation.

SENATOR WASHINGTON:

The price control issue is a disincentive to the manufacturers that are already participating in a program to immunize our less fortunate, disadvantaged children. Our public health care in the rural communities as well as in Washoe County and Clark County are through the Division of Child and Family Services.

While we are looking at price control, it is not so much the drugs that are available but the problem is with the registry. We tried to address that issue last session to put in some provisions

that would help the immunization registry to be in line and to be supportive of what we are trying to do to make certain our children are immunized. I am afraid that this bill is counterproductive to the efforts of what we were trying to do last session in ensuring that we have a viable, up-to-date registry for those children that are going to be immunized. This is the wrong approach and the wrong attempt to get to a problem that should have been addressed last session. The problem is making certain the immunization registry is effective, efficient and up to date.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 234.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 263.

"SUMMARY—Makes various changes concerning the short-term leasing of passenger cars. (BDR 43-33)"

"AN ACT relating to motor vehicles; revising certain provisions governing the fees charged by a short-term lessor of passenger cars; ~~[revising certain provisions concerning the liability of such a lessor for damages caused by the short-term lessee of passenger cars under certain circumstances;]~~ increasing the governmental services fee on short-term leases of passenger cars; *revising the definition of "uninsured motor vehicle" to include a leased passenger car under certain circumstances; making various changes concerning the disclosure of certain information relating to the short-term lease of a passenger car;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a short-term lessor of passenger cars is required to collect from its customers a governmental services fee of 6 percent and a recovery surcharge fee of 4 percent of the adjusted total cost of leasing the car. The lessor is allowed to retain a portion of the money from the recovery surcharge fee as reimbursement of its costs to license and register its vehicles, and is required to remit the remaining amount of that fee, and the full amount of the 6 percent governmental services fee, to the State. (NRS 482.313) Section 6 of this bill increases the amount of the governmental services fee from 6 to 10 percent and eliminates the 4 percent recovery surcharge fee. In place of that fee, section 8 of this bill authorizes a short-term lessor to impose an additional charge on each lease to allow the lessor to recover the full amount of its vehicle licensing costs. Section 8 also authorizes a short-term lessor to impose additional charges to recover other costs that the lessor incurs as a condition of doing business, such as concession fees that the lessor must pay to an airport or other facility for the privilege of operating at the facility, and to recover the amount of any fees that the lessor pays on behalf of the short-term lessee. Section 8 also requires that the short-term lessor must separately identify and clearly disclose the

amount of each additional charge in the quotation or other statement of estimated charges for the lease of the car and in the lease agreement. (NRS 482.3158)

~~[Section 4 of this bill provides that if a short-term lessor leases a passenger car to a short-term lessee for a specified period, and the lessee returns the car before the end of the period, the lessor is not allowed to charge the lessee for the full period, but only for the time that the lessee had possession of the passenger car.~~

~~Under existing law, persons injured as a result of the negligence of the short-term lessee of a passenger car or of another person driving the car with the lessee's permission are entitled to receive payment from the lessee or other driver for their actual damages up to at least the statutory minimum amount. If an injured person's actual damages exceed the amount of that coverage, he is also entitled to recover up to at least the statutory minimum amounts from the liability coverage that the short-term lessor of the passenger car is required to provide as a condition of registering the car. (NRS 482.295, 482.305; *Salas v. Allstate Rent-A-Car, Inc.*, 116 Nev. 1165 (2000), *Hall v. Enter. Leasing Co.-West*, 122 Nev. Adv. Op. 59, 137 P.3d 1104, (2006)) Section 5 of this bill provides that the liability coverage or other form of financial responsibility provided by a short-term lessor may be used to satisfy a claim for damages caused by the negligence of the short-term lessee or his permittee in operating the vehicle only to a certain extent. Section 5 also provides that a short-term lessor of a motor vehicle who provides the mandatory insurance or other financial security in the statutory minimum amounts is not liable for any damages caused by the negligence of the short-term lessee or his permittee in operating the rented vehicle if: (1) the short-term lessee or his permittee has liability coverage up to the statutory minimum amounts; (2) the injured person has uninsured vehicle coverage in amounts up to the statutory minimum amounts; or (3) the short-term lessee or his permittee violates a term or condition of the short-term lease agreement. (NRS 482.305)]~~ *Existing law provides that, with certain exceptions, no policy of motor vehicle liability insurance may be delivered or issued for delivery in this State unless it provides uninsured vehicle coverage to the persons insured under the policy. (NRS 690B.020)* Section 9 of this bill amends the definition of "uninsured motor vehicle" to include a leased passenger car for which the short-term lessor has provided liability coverage up to the statutory minimum amounts, but which is operated by a short-term lessee ~~[or other driver with his permission]~~ who does not have liability coverage in at least the statutory minimum statutory amounts. ~~[(NRS 690B.020)]~~

Section 10 of this bill repeals a provision of existing law that requires a short-term lessor to: (1) advertise, quote and charge a rate for leasing a passenger car that, with certain exceptions, includes the entire amount that a short-term lessee must pay to lease the car; and (2) clearly disclose in the

advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rate. (NRS 482.31575)

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[,]~~ *and* 3 ~~[and 4]~~ of this act.

Sec. 2. *"Vehicle licensing costs"* ~~*[has the meaning ascribed to it in NRS 482.313.]*~~ *means:*

1. The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him, including, without limitation, fees for license plates and license plate decals, stickers and tabs, and inspection fees; and

2. The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those passenger cars.

Sec. 3. *1. A short-term lessor that wishes to impose an additional charge pursuant to NRS 482.3158 to recover its vehicle licensing costs must, not less than annually, make good faith estimates of:*

(a) Its vehicle licensing costs for the calendar year; and

(b) The charge that must be imposed in each lease to recover those costs.

2. If the amount of money collected by a short-term lessor for the recovery of its vehicle licensing costs during a calendar year ~~*[exceeds]*~~ *is different from the amount of those costs for that year, the short-term lessor shall:*

(a) Retain the ~~*[excess]*~~ *amount* ~~*[,]*~~ *collected; and*

(b) ~~*[Reduce]*~~ *Adjust its estimate of its vehicle licensing costs and the charge that must be imposed on each lease to recover those costs for the immediately following calendar year by the amount of the* ~~*[excess.]*~~ *difference.*

3. This section does not prevent a short-term lessor from making adjustments in the amount of its charge to recover its vehicle licensing costs during the calendar year.

4. A short-term lessor shall annually report to the Department of Taxation:

(a) The amount of the short-term lessor's vehicle licensing costs for the immediately preceding calendar year; and

(b) The amount of money collected by the short-term lessor for the recovery of its vehicle licensing costs for the immediately preceding calendar year.

Sec. 4. ~~*[1. Except as otherwise provided in this section, if a short-term lessor leases a passenger car to a short-term lessee for a specified period under a lease agreement that establishes a rate for leasing the passenger car for the period and the lessee returns the passenger car before the end of the period, the lessor:*~~

~~*(a) May not charge the lessee a fee for returning the passenger car before the end of the period specified in the lease;*~~

(b) Must charge the lessee only for the days or parts thereof that the lessee was in possession of the passenger car; and

(c) Unless the lease agreement establishes a lower daily rate, must charge the lessee a daily rate for leasing the passenger car that is calculated by dividing the rate for the period set forth in the lease agreement by the number of days in that period.

2. This section does not apply to the lease of a passenger car for a period of 24 hours or less.] *(Deleted by amendment.)*

Sec. 5. [NRS 482.305 is hereby amended to read as follows:

482.305 1. The short-term lessor of a motor vehicle who permits the short-term lessee to operate the vehicle upon the highways, and who has not complied with NRS 482.295 insuring or otherwise covering the short-term lessee against liability arising out of his negligence in the operation of the rented vehicle in limits of not less than $15,000 for any one person injured or killed and $30,000 for any number more than one, injured or killed in any one accident, and against liability of the short-term lessee for property damage in the limit of not less than $10,000 for one accident, is jointly and severally liable with the short-term lessee for any damages caused by the negligence of the latter in operating the vehicle and for any damages caused by the negligence of any person operating the vehicle by or with the permission of the short-term lessee, except that the foregoing provisions do not confer any right of action upon any passenger in the rented vehicle against the short-term lessor. This section does not prevent the introduction as a defense of contributory negligence to the extent to which this defense is allowed in other cases.

2. Notwithstanding the provisions of subsection 1, a short-term lessor of a motor vehicle who complies with NRS 482.295 is not liable for any damages caused by the negligence of the short-term lessee or his permittee in operating the rented vehicle if:

(a) The short-term lessee or his permittee is insured or otherwise covered by a policy of insurance against liability for damages caused by negligence in the operation of the vehicle in amounts that are not less than the amounts required pursuant to NRS 485.185;

(b) A person whose damages are caused by the negligence of the short-term lessee or his permittee in operating the vehicle has uninsured vehicle coverage in amounts that are not less than the amounts required pursuant to NRS 485.185; or

(c) The short-term lessee or his permittee violates a term or condition of the short-term lease agreement.

3. The policy of insurance, surety bond , or deposit of cash or securities [inures to the benefit of any person operating the vehicle by or with the permission of the short-term lessee in the same manner, under the same conditions and to the same extent as to the short-term lessee.

3.] *, or other form of financial responsibility provided by a short-term lessor as required by subsection 1 may be used to satisfy a claim for*

~~*damages caused by the negligence of the short-term lessee or his permittee in operating the vehicle only to the extent that no other insurance policy, surety bond, deposit of cash or other securities, or other form of financial responsibility is available to satisfy the claim in the amounts required pursuant to NRS 485.185.*~~

~~*4.* The insurance policy, surety bond , [or] deposit of cash or securities , *or other form of financial responsibility provided by a short-term lessor as required by subsection 1* need not cover any liability incurred by the short-term lessee of any vehicle to any passenger in the vehicle , [;] but the short-term lessor , before delivering the vehicle , shall give to the short-term lessee a written notice of the fact that such a policy, bond or deposit does not cover the liability which the short-term lessee may incur on account of his negligence in the operation of the vehicle to any passenger in the vehicle.~~

~~[4.] *5.* When any suit or action is brought against the short-term lessor under this section, the judge before whom the case is pending shall hold a preliminary hearing in the absence of the jury to determine whether the short-term lessor has provided insurance or a surety bond or deposit of cash or securities , *or other form of financial responsibility* covering the short-term lessee as required by subsection 1. Whenever it appears that the short-term lessor has provided insurance or a surety bond or deposit of cash or securities , *or other form of financial responsibility* covering the short-term lessee in the required amount, the judge shall dismiss as to the short-term lessor the action brought under this section.~~

~~*6. This section does not:*~~

~~*(a) Prevent a short-term lessor from providing in a short-term lease agreement that:*~~

~~*(1) The short-term lessor must satisfy any claim for damages caused by the negligence of the short-term lessee or his permittee in operating the vehicle up to the extent of any insurance policy, surety bond, deposit of cash or other securities, or other form of financial responsibility provided by the short-term lessee; and*~~

~~*(2) Any insurance policy, surety bond, deposit of cash or other securities, or other form of financial responsibility provided by the short-term lessee is primary.*~~

~~*(b) Affect the right of a short-term lessor to make a claim against a short-term lessee or his permittee for indemnity or contribution.*~~

~~*(c) Oblige a short-term lessor to provide a defense in any action brought against a short-term lessee or his permittee for damages caused by negligence in the operation of the rented vehicle.*~~

~~*7. As used in this section:*~~

~~*(a) "Permittee" means a person who operates a leased vehicle by or with the permission of the short-term lessee of the vehicle.*~~

~~*(b) "Uninsured vehicle coverage" has the meaning ascribed to it NRS 690B.020.]*~~ *(Deleted by amendment.)*

Sec. 6. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of ~~[6]~~ *10* percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7; *and*

(b) Any fee required pursuant to NRS 244A.810 or 244A.860 . ~~[; and~~

~~(c) A recovery surcharge fee of 4 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 8, as reimbursement for vehicle licensing fees and taxes paid by the short-term lessor.]~~

➥ The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of ~~[:~~

~~(1) Each]~~ *each* of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

~~[(2) Vehicle licensing]~~ ~~[fees and taxes]~~ ~~*[costs* paid by the short-term lessor pursuant to this chapter during the immediately preceding calendar quarter.]~~

(b) Remit to the Department of Taxation ~~[:~~

~~(1) The]~~ *the* fees collected by the short-term lessor pursuant to ~~[paragraphs (a) and (b) of]~~ subsection 1 during the immediately preceding calendar quarter . ~~[; and~~

~~(2) One quarter of the fees collected by the short-term lessor pursuant to paragraph (c) of subsection 1 during the immediately preceding calendar quarter.]~~

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit ~~[all]~~ *:*

(a) All money received from short-term lessors pursuant to the provisions of ~~[:~~

~~(a) Subparagraph (1) of]~~ paragraph (b) of subsection ~~[2]~~ *1* with the State Treasurer for credit to the State General Fund; ~~[and]~~

(b) ~~[Subparagraph (2) of]~~ *Nine-tenths of the money received from short-term lessors pursuant to the terms of paragraph (a) of subsection 1 with the State Treasurer for credit to the State General Fund; and*

(c) One-tenth of the money received from short-term lessors pursuant to the terms of paragraph ~~[(b)]~~ *(a)* of subsection ~~[2]~~ *1* with the State Treasurer for credit to the State Highway Fund for administration pursuant to subsection 8 of NRS 408.235.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of ~~[the fees]~~ *any fee* charged and collected pursuant to ~~[paragraphs (b) and (c)]~~ *paragraph (b)* of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.

8. ~~[For the purposes of charging and collecting the recovery surcharge fee described in paragraph (c) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:~~

~~(a) The amount of the fees charged and collected pursuant to paragraphs (a) and (b) of subsection 1;~~

~~(b) The amount of any charge for a collision damage waiver or a similar instrument that acts as a waiver of the short-term lessor's right to collect from the short-term lessee for any damage to the passenger car;~~

~~(c) The amount of any charge for fuel used to operate the passenger car;~~

~~(d) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;~~

~~(e) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property;~~

~~(f) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible; and~~

~~(g) The amount of any concession fee or charge that the short-term lessor:~~

~~(1) Is required to pay to do business at an airport, if applicable; and~~

~~(2) Passes on to the short-term lessee of the passenger car.~~

~~9.]~~ The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as he determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

~~[10.] *[9. As used in this section, "vehicle licensing]* [fees and taxes"] *[costs" means:*~~

~~(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him]~~ ~~[;]~~ ~~*[, including, without limitation, fees for license plates and license plate decals, stickers and tabs, and inspection fees; and*~~

~~(b) The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those passenger cars.]~~

Sec. 7. NRS 482.3151 is hereby amended to read as follows:

482.3151 As used in NRS 482.3151 to 482.3159, inclusive, *and sections 2 ~~[,]~~ and 3 ~~[and 4]~~ of this act*, unless the context otherwise requires, the words and terms defined in NRS 482.31515 to 482.3153, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 482.3158 is hereby amended to read as follows:

482.3158 1. The short-term lessor of a passenger car may impose an additional charge:

(a) Based on reasonable age criteria established by the lessor.

(b) For any item or a service provided if the short-term lessee could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service.

(c) For insurance and accessories requested by the lessee.

(d) For service incident to the lessee's optional return of the *passenger* car to a location other than the location where the *passenger* car was leased.

(e) For refueling the *passenger* car at the conclusion of the lease if the lessee did not return the *passenger* car with as much fuel as was in the fuel tank at the beginning of the lease.

(f) For any authorized driver in addition to the short-term lessee but shall not, except as otherwise provided in this paragraph, charge more than $10 per full or partial 24-hour period for such an additional authorized driver. The monetary amount set forth in this paragraph must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.

(g) To recover costs incurred by the short-term lessor as a condition of doing business, including, without limitation:

(1) The short-term lessor's vehicle licensing costs; and

(2) Concession, access and other fees imposed on the short-term lessor by an airport or other facility for the privilege of operating at the facility.

(h) To recover any fees paid by the short-term lessor on behalf of the short-term lessee, including, without limitation, a customer facility charge imposed on the short-term lessee by an airport or other facility for the privilege of using the facility.

2. *The short-term lessor of a passenger car that wishes to impose an additional charge pursuant to this section must separately identify and clearly disclose the amount of the charge in the quotation or other statement of estimated charges for the lease of the passenger car and in the lease agreement. The short-term lessor shall not collect from a short-term lessee the amount of any additional charge that the lessor has failed to identify and disclose as required pursuant to this section.*

3. A short-term lessor shall not charge a short-term lessee, as a condition of leasing a passenger car, an additional fee for:

(a) Any surcharges required for fuel.

(b) Transporting the lessee to the location where the *passenger* car will be delivered to the lessee.

~~[3.]~~ *4.* If a short-term lessor:

(a) Delivers a passenger car to a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period before the delivery of the *passenger* car.

(b) Takes possession of a passenger car from a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period after the lessee notifies the lessor to take possession of the *passenger* car.

Sec. 9. NRS 690B.020 is hereby amended to read as follows:

690B.020 1. Except as otherwise provided in this section and NRS 690B.035, no policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle may be delivered or issued for delivery in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages, from owners or operators of uninsured or hit-and-run motor vehicles, for bodily injury, sickness or disease, including death, resulting from the ownership, maintenance or use of the uninsured or hit-and-run motor vehicle. No such coverage is required in or supplemental to a policy issued to the State of Nevada or any political subdivision thereof, or where rejected in writing, on a form furnished by the insurer describing the coverage being rejected, by an insured named therein, or upon any renewal of such a policy unless the coverage is then requested in writing by the named insured. The coverage required in this section may be referred to as "uninsured vehicle coverage."

2. The amount of coverage to be provided must be not less than the minimum limits for liability insurance for bodily injury provided for under

chapter 485 of NRS, but may be in an amount not to exceed the coverage for bodily injury purchased by the policyholder.

3. For the purposes of this section, the term "uninsured motor vehicle" means a motor vehicle:

(a) With respect to which there is not available at the Department of Motor Vehicles evidence of financial responsibility as required by chapter 485 of NRS;

(b) With respect to the ownership, maintenance or use of which there is no liability insurance for bodily injury or bond applicable at the time of the accident ~~[,]~~ or, to the extent of such deficiency, any liability insurance for bodily injury or bond in force is less than the amount required by NRS 485.210;

(c) With respect to the ownership, maintenance or use of which the company writing any applicable liability insurance for bodily injury or bond denies coverage or is insolvent;

(d) Used without the permission of its owner if there is no liability insurance for bodily injury or bond applicable to the operator;

(e) Used with the permission of its owner who has insurance which does not provide coverage for the operation of the motor vehicle by any person other than the owner if there is no liability insurance for bodily injury or bond applicable to the operator; ~~[or]~~

(f) The owner or operator of which is unknown or after reasonable diligence cannot be found if:

(1) The bodily injury or death has resulted from physical contact of the automobile with the named insured or the person claiming under him or with an automobile which the named insured or such a person is occupying; and

(2) The named insured or someone on his behalf has reported the accident within the time required by NRS 484.223, 484.225 or 484.227 to the police department of the city where it occurred ~~[,]~~ or , if it occurred in an unincorporated area, to the sheriff of the county or to the Nevada Highway Patrol ~~[.]~~ *; or*

(g) Used by a short-term lessee ~~[or a person by or with his permission]~~ if:

(1) The short-term lessor has satisfied the requirements of NRS 482.295 and subsection 1 of 482.305; and

(2) The short-term lessee ~~[or his permittee]~~ is not insured or otherwise covered by a policy of insurance against liability for damages caused by negligence in the operation of the vehicle in amounts that are not less than the amounts required pursuant to NRS 485.185.

4. For the purposes of this section, the term "uninsured motor vehicle" also includes, subject to the terms and conditions of coverage, an insured other motor vehicle where:

(a) The liability insurer of the other motor vehicle is unable because of its insolvency to make payment with respect to the legal liability of its insured within the limits specified in its policy;

(b) The occurrence out of which legal liability arose took place while the uninsured vehicle coverage required under paragraph (a) was in effect; and

(c) The insolvency of the liability insurer of the other motor vehicle existed at the time of, or within 2 years after, the occurrence.

➥ Nothing contained in this subsection prevents any insurer from providing protection from insolvency to its insureds under more favorable terms.

5. If payment is made to any person under uninsured vehicle coverage, and subject to the terms of the coverage, to the extent of such payment the insurer is entitled to the proceeds of any settlement or recovery from any person legally responsible for the bodily injury as to which payment was made, and to amounts recoverable from the assets of the insolvent insurer of the other motor vehicle.

6. A vehicle involved in a collision which results in bodily injury or death shall be presumed to be an uninsured motor vehicle if no evidence of financial responsibility is supplied to the Department of Motor Vehicles in the manner required by chapter 485 of NRS within 60 days after the collision occurs.

Sec. 10. *NRS 482.31575 is hereby repealed.*

TEXT OF REPEALED SECTION

482.31575 Advertisement of lease: Disclosure of certain information required.

1. A short-term lessor shall advertise, quote and charge a rate for leasing a passenger car that includes the entire amount except the taxes, any fees paid to airports and any charges for mileage, that a short-term lessee must pay to lease the car for the period to which the rate applies.

2. If a short-term lessor states a rate for lease of a passenger car in a printed advertisement or in a quotation transmitted by computer or telephone or in person, the lessor shall clearly disclose in the advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rate, including, but not limited to, the amount of mileage and gas charges, the number of miles for which no charges will be imposed and a description of geographic driving limitations.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

The amendment removes most of the content of the original bill that I had drafted. It was made available to the short-term rental car industry so that they might be able to address the money that was taken from them during the December Special Session. It removes a contentious provision relating to tort reform which was requested by the industry and denied by the committee. It defines what "cost" is for the industry in order that they may charge a fair price, and it requires that reporting of that cost be made to the Department of Taxation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 499.

"SUMMARY—Requires local law enforcement agencies to enforce certain state laws. (BDR 43-719)"

"AN ACT relating to traffic laws; expanding to ~~[all]~~ *certain category I* peace officers *and certain inspectors* in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include all law enforcement agencies in the State ~~[.]~~ *and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.*

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

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in the ~~[Nevada Highway Patrol.]~~ *law enforcement agencies in this State.*

2. Any *category I peace* officer ~~[of the Nevada Highway Patrol]~~ *or inspector* having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever ~~[an]~~ *a category I peace* officer *or an inspector* upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The *category I peace* officer *or inspector* may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by ~~[an officer of the Nevada Highway Patrol]~~ *a category I peace officer or an inspector* upon a weighing of the vehicle to stop and otherwise comply with

the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. As used in this section:

(a) "Category I peace officer" means a peace officer as defined in NRS 289*.460 who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.*

(b) "Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 202.873.

~~[(b) "Peace officer" means:~~

~~(1) A peace officer or an inspector of the Department of Motor Vehicles or the Department of Public Safety; or~~

~~(2) A sheriff, peace officer or traffic officer assisting in the enforcement of the provisions of this chapter.]~~

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. Amendment No. 499 to Senate Bill No. 243 limits the application of the bill to Category I peace officers or inspectors who have completed instruction in vehicle weight enforcement training conducted by the Nevada Highway Patrol. A "Category I peace officer" is defined in NRS 289.460.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 260.

Bill read second time.

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

Amendment No. 299.

"SUMMARY—Revises provisions relating to the management of treatment for persons with co-occurring disorders. (BDR 40-941)"

"AN ACT relating to mental health; authorizing the Committee on Co-Occurring Disorders to take certain actions regarding treatment for co-occurring disorders; requiring the Committee to ~~[adopt]~~ *recommend the adoption of* regulations for the treatment of persons with co-occurring disorders; expanding the membership of the Committee; requiring the Committee to set certain standards regarding the treatment of patients with co-occurring disorders; requiring certain alcohol and drug abuse programs to screen patients for mental health disorders; requiring certain employees of the Department of Corrections and certain mental health workers and substance abuse counselors to receive annual *or biannual* training relating to

co-occurring disorders; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Committee on Co-Occurring Disorders and sets forth its membership, which is appointed by the Governor and made up of certain members of the mental health and addictions recovery community, the education system, the criminal justice system, and persons who have used or are related to persons who have used services relating to mental health, substance abuse or criminal justice in Nevada. (NRS 439.527) Existing law also sets forth the duties of the Committee. (NRS 439.528) Section 5 of this bill sets forth various actions the Committee is authorized to take, including accepting donations to assist in carrying out its purposes, ~~[taking steps]~~ *making recommendations* to increase the quality of care of persons with co-occurring disorders, creating a plan to coordinate the services for the treatment of a person with co-occurring disorders and offering training programs concerning the treatment of those suffering from co-occurring disorders. Section 6 of this bill requires the Committee to *recommend that the Division of Mental Health and Developmental Services of the Department of Health and Human Services* adopt regulations for the care and treatment of persons with co-occurring disorders by state agencies to ensure the continuity of care, and authorizes the Committee to *recommend that the Division* adopt regulations to promote programs relating to co-occurring disorders. Section 7 of this bill authorizes the Committee or its designated agent to ~~[inspect]~~ *review* state facilities providing services for persons with co-occurring disorders to determine if the facility is in compliance with the provisions of NRS relating to the treatment of co-occurring disorders. Section 9 of this bill expands the membership of the Committee to include one member of the Senate, one member of the Assembly and three additional members who are representatives of state and local criminal justice agencies. (NRS 439.527) Section 10 of this bill expands the duties of the Committee to require the Committee ~~[to establish various policies,]~~ to review the finances and programs of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ and the Department of Corrections for the treatment of persons with co-occurring disorders, and to provide that, if a person with co-occurring disorders is being treated by both a person who is professionally qualified in the field of psychiatric mental health and a person who is licensed as an alcohol and drug abuse counselor or clinical alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor, the professionals must communicate about the treatment of the person, unless he refuses to grant permission for the communication. (NRS 439.528)

Section 11 of this bill expands the existing duties of the Division of Mental Health and Developmental Services to include requiring all alcohol and drug abuse programs which are certified to receive state and federal money to screen their patients for the existence of mental health disorders as well as for

alcohol and drug abuse. (NRS 458.025) Sections 13-17 of this bill require the Department of Corrections, the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers and the Board of Examiners for Alcohol, Drug and Gambling Counselors to require their respective employees and licensees to receive at least ~~[6]~~ *2* hours of training annually *or biannually, as applicable,* relating to co-occurring disorders. (NRS 641.220, 641A.170, 641B.280, 641C.200)

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in NRS 439.526, 439.527 and 439.528 and sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 439.526 and sections 3 and 4 of this act have the meanings ascribe to them in those sections.*

Sec. 3. *"Committee" means the Committee on Co-Occurring Disorders created pursuant to NRS 439.527.*

Sec. 4. *"Division" means the Division of Mental Health and Developmental Services of the Department.*

Sec. 5. *The Committee may:*

1. Collect and disseminate information pertaining to co-occurring disorders.

2. Accept gifts and grants of money and property.

3. ~~[Take appropriate steps]~~ Make recommendations to increase the availability of and enhance the quality of the care and treatment of a person with co-occurring disorders provided through state agencies, hospitals and clinics.

4. Create a plan to coordinate the services for the treatment of a person with co-occurring disorders provided in this State and to provide continuity in the care and treatment of the person.

5. Offer training programs concerning the treatment of a person with co-occurring disorders.

6. Accept information and requests from employees of the Division and the Department of Corrections and allow the employees to appear before the Committee to testify. The Committee may not interfere with the procedures for resolving the grievances of employees in the classified service of the State.

Sec. 6. *1. The Committee shall recommend that the Division adopt regulations:*

(a) For the care and treatment of persons with co-occurring disorders by all state agencies and facilities, and the referral of those persons to private facilities; and

(b) To ensure the continuity of care and treatment of persons with co-occurring disorders in this State.

2. The Committee may recommend that the Division adopt regulations to promote programs relating to co-occurring disorders.

Sec. 7. *The Committee or its designated agent may ~~[inspect]~~ review any state facility providing services for persons with co-occurring disorders to determine if the facility is in compliance with the provisions of NRS 439.526, 439.527 and 439.528 and sections 2 to 7, inclusive, of this act, and any regulations adopted pursuant to those provisions.*

Sec. 8. NRS 439.526 is hereby amended to read as follows:

439.526 ~~[As used in this section and NRS 439.527 and 439.528, unless the context otherwise requires, "co-occurring]~~ *"Co-occurring* disorders" means the existence of both mental health and substance abuse disorders in the same person.

Sec. 9. NRS 439.527 is hereby amended to read as follows:

439.527 1. There is hereby created the Committee on Co-Occurring Disorders. The Committee consists of:

(a) ~~[The Administrator of the Division of Mental Health and Developmental Services of the Department, who is an ex-officio member of the Committee; and~~

~~(b) Fourteen]~~ *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; and

(c) Seventeen members appointed by the Governor.

2. The Governor shall appoint to the Committee:

(a) One member who is a psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;

(b) One member who is a physician licensed pursuant to chapter 630 or 633 of NRS who is certified as an addictionologist by the American Society of Addiction Medicine;

(c) One member who is a psychologist licensed to practice in this State;

(d) One member who is licensed as a marriage and family therapist in this State;

(e) One member who is licensed as a clinical social worker in this State;

(f) One member who is a district judge in this State;

(g) One member who is a representative of the Nevada System of Higher Education;

(h) ~~[One member who is a representative]~~ *Four members who are representatives* of ~~[a]~~ state ~~[or]~~ *and* local criminal justice ~~[agency;]~~ *agencies, one of whom must be a representative of a department of juvenile justice services;*

(i) One member who is a representative of a hospital or mental health facility in this State;

(j) One member who is a member of the Nevada Mental Health Planning Advisory Council;

(k) One member who is a representative of a program relating to mental health and the treatment of the abuse of alcohol or drugs in this State;

(l) One member who is a policy analyst in the field of mental health, substance abuse or criminal justice;

(m) One member who is a representative of persons who have used services relating to mental health, substance abuse or criminal justice in this State; and

(n) One member who is an immediate family member of a person who has used services relating to mental health, substance abuse or criminal justice in this State.

3. The members of the Committee shall elect a Chairman and Vice Chairman by a majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on October 1 of each year. If a vacancy occurs in the chairmanship, the members of the Committee shall elect a Chairman from among its members for the remainder of the unexpired term.

4. After the initial terms, each member of the Committee who is appointed serves for a term of 4 years. A member may be reappointed.

5. A vacancy on the Committee must be filled in the same manner as the original appointment.

6. Each member of the Committee:

(a) Serves without compensation; and

(b) While engaged in the business of the Committee, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

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

8. The members of the Committee shall meet at least quarterly and *more when necessary* at the times and places specified by a call of the Chairman or a majority of the members of the Committee.

9. ~~[Eight]~~ *Ten* members of the Committee constitute a quorum. The affirmative vote of a majority of the Committee members present is sufficient for any action of the Committee.

Sec. 10. NRS 439.528 is hereby amended to read as follows:

439.528 The Committee shall:

1. Study and review issues relating to persons with co-occurring disorders.

2. Develop a policy statement ~~*[Establish policies]*~~ confirming the commitment of this State to treatment for persons with co-occurring disorders and the expectations of this State concerning such treatment.

3. Review and recommend strategies ~~*[establish policies]*~~ for improving the treatment provided to persons with co-occurring disorders, including, without limitation, reducing administrative barriers to such treatment and supporting the provision of coordinated and integrated services relating to mental health, substance abuse and criminal justice to persons with co-occurring disorders.

4. Develop recommendations ~~*[Establish policies]*~~ concerning the licensing and certification of treatment programs for persons with co-occurring disorders, including, without limitation, the standards that should be required of such programs to increase their effectiveness.

5. Develop recommendations concerning the creation of incentives for the development of treatment programs for persons with co-occurring disorders.

6. ~~[Evaluate the utilization of existing resources in this State]~~ *Review the finances and programs of the Division, including those for alcohol and drug abuse programs authorized by NRS 458.025, and the Department of Corrections* for the treatment of persons with co-occurring disorders and develop recommendations ~~*[policies]*~~ concerning innovative funding alternatives to promote and support ~~[mental health courts,]~~ the prevention of co-occurring disorders and the coordination of integrated services in the mental health, substance abuse and criminal justice systems.

7. Identify and recommend ~~*[establish]*~~ practices and procedures to improve the effectiveness and quality of care provided in both the public and private sector to persons with co-occurring disorders.

8. ~~[Examine and develop]~~ *Develop* recommendations concerning training and technical assistance that are available through the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services and other entities to support the development and implementation of a comprehensive system of care for persons with co-occurring disorders.

9. *Require that, if a person with co-occurring disorders is being treated by both a person who is professionally qualified in the field of psychiatric mental health, as defined in NRS 433.209, and a person who is licensed as an alcohol and drug abuse counselor or clinical alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor pursuant to chapter 641C of NRS, the person professionally qualified in the field of psychiatric mental health and the alcohol and drug abuse counselor or clinical alcohol and drug abuse counselor shall communicate at least once a month about case planning and treatment regarding the person, unless the person refuses to grant permission for such communication.*

10. Require any program treating persons with co-occurring disorders to file a ~~[monthly]~~ bimonthly report with the Committee regarding the management of treatment of co-occurring disorders.

11. Submit on or before January 31 of each odd-numbered year a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. The report must include, without limitation, a summary of the work of the Committee and recommendations for any necessary legislation concerning issues relating to persons with co-occurring disorders.

Sec. 11. NRS 458.025 is hereby amended to read as follows:

458.025 The Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

➥ In developing and revising the state plan, the Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of detoxification technicians or any facilities or programs on the basis of the standards established by the Division pursuant to this section, and publish a list of certified detoxification technicians, facilities and programs. Any detoxification technicians, facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The Division shall adopt regulations. The regulations:

(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and

(b) May prescribe the fees for the certification of detoxification technicians, facilities or programs. A fee prescribed pursuant to this paragraph must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility, its programs and detoxification technicians and add them to the list described in subsection 4.

6. Shall require all alcohol and drug abuse programs which are certified pursuant to subsection 4 to screen a person who receives treatment in the program for the existence of mental health disorders as well as for alcohol and drug abuse.

Sec. 12. NRS 458.025 is hereby amended to read as follows:

458.025 The Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

➥ In developing and revising the state plan, the Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of any facilities or programs on the basis of the standards established by the Division pursuant to this section, and publish a list of certified facilities and programs. Any facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The Division shall adopt regulations which may prescribe the fees for the certification of facilities or programs. A fee prescribed pursuant to this subsection must be calculated to

produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility and its programs and add them to the list described in subsection 4.

6. Shall require all alcohol and drug abuse programs which are certified pursuant to subsection 4 to screen a person who receives treatment in the program for the existence of mental health disorders as well as for alcohol and drug abuse.

Sec. 13. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall develop and implement, in each institution and facility of the Department, a program of annual training for the correctional staff consisting of at least ~~[6]~~ 2 hours of training relating to co-occurring disorders, as defined in NRS 439.526.

Sec. 14. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Board for renewal;

(b) Pay the biennial fee for the renewal of a license;

(c) Submit evidence to the Board of his completion of the requirements for continuing education ~~[;]~~ *, including, without limitation, at least ~~[6]~~ 2 hours of training relating to co-occurring disorders, as defined in NRS 439.526;* and

(d) Submit all information required to complete the renewal.

2. Upon renewing his license, the holder of the license shall declare his areas of competence, as determined in accordance with NRS 641.112.

3. ~~[The]~~ *In addition to the training required pursuant to paragraph (c) of subsection 1, the* Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board.

Sec. 15. NRS 641A.170 is hereby amended to read as follows:

641A.170 The Board shall under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensing.

2. License qualified applicants.

3. Revoke or suspend licenses.

4. Establish requirements for continuing education ~~[.]~~ *, which must include, without limitation, at least ~~[6]~~ 2 hours of ~~[annual]~~ biannual training relating to co-occurring disorders, as defined in NRS 439.526.*

5. Collect all fees and make disbursements pursuant to this chapter.

Sec. 16. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his license annually by:

(a) Applying to the Board for renewal;

(b) Paying the annual renewal fee set by the Board;

(c) Submitting evidence to the Board of his completion of the required continuing education ~~[.]~~ *, including, without limitation, at least ~~[6]~~ 2 hours of training relating to co-occurring disorders, as defined in NRS 439.526;* and

(d) Submitting all information required to complete the renewal.

2. ~~[The]~~ *In addition to the training required pursuant to paragraph (c) of subsection 1, the* Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the requirements for continuing education adopted by the Board.

Sec. 17. NRS 641C.200 is hereby amended to read as follows:

641C.200 1. The Board shall adopt such regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations that prescribe:

(a) The ethical standards for licensed and certified counselors and certified interns; and

(b) The requirements for continuing education for the renewal, restoration or reinstatement of a license or certificate ~~[.]~~ *, which must include, without limitation, at least ~~[6]~~ 2 hours of annual training relating to co-occurring disorders, as defined in NRS 439.526.*

2. The Board may adopt regulations that prescribe:

(a) The contents of a written examination concerning the practice of counseling problem gamblers;

(b) The grounds for initiating disciplinary action against a certified problem gambling counselor or certified problem gambling counselor intern; and

(c) Disciplinary procedures for certified problem gambling counselors and certified problem gambling counselor interns, including the suspension, revocation and reinstatement of a certificate as a problem gambling counselor or problem gambling counselor intern.

3. Any regulations adopted by the Board pursuant to this section must be consistent with the provisions of chapter 622A of NRS.

Sec. 18. As soon as practicable on or after July 1, 2009:

1. The Majority Leader of the Senate shall appoint to the Committee on Co-Occurring Disorders pursuant to paragraph (a) of subsection 1 of NRS 439.527, as amended by section 9 of this act, one member of the Senate whose term expires on October 1, 2011.

2. The Speaker of the Assembly shall appoint to the Committee on Co-Occurring Disorders pursuant to paragraph (b) of subsection 1 of NRS 439.527, as amended by section 9 of this act, one member of the Assembly whose term expires on October 1, 2012.

3. The Governor shall appoint to the Committee on Co-Occurring Disorders pursuant to paragraph (h) of subsection 2 of NRS 439.527, as amended by section 9 of this act, three members whose terms expire on October 1, 2013.

Sec. 19. 1. This section and sections 1 to 11, inclusive, and 13 to 18, inclusive, of this act ~~[becomes]~~ *become* effective on July 1, 2009.

2. Section 11 of this act expires by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.

3. Section 12 of this act becomes effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 299 to Senate Bill No. 260 allows the Committee on Co-Occurring Disorders to advise and provide input in certain areas and removes certain authority from the Committee, which was proposed in the original bill.

In addition, the amendment reduces the requirement that certain employees and licensees receive training annually relating to co-occurring disorders from six hours, as proposed in the original bill, to two hours. Also, it provides that the training may be required biannually, if applicable.

Amendment adopted.

Bill ordered reprinted and engrossed and to third reading.

Senator Wiener moved that Senate Bill No. 260 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Wiener.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bills Nos. 233, 234 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 293.

Bill read second time.

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

Amendment No. 448.

"SUMMARY— ~~[Requires a court order]~~ *Establishes procedures* for *authorizing the administration of* certain ~~[prescriptions of]~~ medication for children in the custody of certain agencies. (BDR 38-701)"

"AN ACT relating to children; ~~[requiring a court order under certain circumstances before]~~ prescribing *procedures for authorizing the administration of* certain *psychotropic* medications to children who are in the

custody of agencies which provide child welfare services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which a child may be removed from the physical custody of his parent or legal guardian and requires agencies which provide child welfare services to carry out certain duties relating to the protection of those children. (Chapter 432B of NRS) ~~[This]~~ *Section 1 of this* bill ~~[requires a physician]~~ *prescribes procedures for an agency which provides child welfare services* to obtain the ~~[approval of a court of competent jurisdiction]~~ *consent of a parent or guardian of a child in the custody of an agency which provides child welfare services* before ~~[prescribing]~~ *authorizing the administration of* a psychotropic medication to ~~[a]~~ *that* child . ~~[in the custody of an agency which provides child welfare services if: (1) the parent or guardian of the child refuses to consent to the prescription; (2) the child is under 6 years of age; (3) the child is being prescribed for more than four psychotropic medications; (4) the medication is being prescribed for a purpose other than a purpose intended by the manufacturer ; or (5) the medication is being prescribed for a purpose other than a purpose approved by the United States Food and Drug Administration.]~~ *Section 1 also provides that an agency which provides child welfare services may, under certain circumstances, obtain approval of a court of competent jurisdiction if the agency believes that a psychotropic medication must be administered to the child and the parent or legal guardian denies a request for consent.*

Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to review the policies and procedures relating to the prescription and administration of psychotropic medication to children in the custody of agencies which provide child welfare services in this State and to report its findings to the Legislative Committee on Health Care and the mental health consortiums.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section and NRS 432B.607 to 432B.6085, inclusive, or by order of a court pursuant to chapter 433B of NRS, ~~[a physician may prescribe]~~ an agency which provides child welfare services may authorize the administration of a psychotropic medication to a child who is in the custody of ~~[an]~~ the agency ~~[which provides child welfare services]~~ if the parent or legal guardian of the child who has the authority to make medical decisions for the child has given consent to the prescription and administration of the psychotropic medication. ~~[A physician shall not prescribe]~~ An agency which provides child welfare services shall provide to the parent or legal guardian of a child before obtaining consent for the administration of a psychotropic medication the following information:

(a) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;

(b) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;

(c) The expected results of the psychotropic medication;

(d) The anticipated consequences of not administering the psychotropic medication to the child; and

(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication.

2. If the parent or legal guardian of a child does not respond to a request for consent pursuant to subsection 1 to administer a psychotropic medication to a child who is in the custody of an agency which provides child welfare services within 5 days after the request was made, the agency may authorize the administration of a psychotropic medication to the child.

3. If the parent or legal guardian of a child who has the authority to make medical decisions for the child denies a request for consent pursuant to subsection 1, an agency which provides child welfare services may authorize the administration of a psychotropic medication to ~~[a child who is in the custody of an agency which provides child welfare services if:~~

~~(a) The parent or legal guardian of the child has refused to consent to the prescription;~~

~~(b)]~~ that child unless:

(a) The child is under 6 years of age; or

~~[(c)]~~ (b) The child is being prescribed for more than ~~[four]~~ five psychotropic medications. ~~[;~~

~~(d) The psychotropic medication is being prescribed for a purpose other than a purpose intended by the manufacturer of the medication; or~~

~~(e) The psychotropic medication is being prescribed for a purpose other than a purpose approved by the United States Food and Drug Administration.~~

~~2.]~~ 4. Notwithstanding the provisions of ~~[subsection]~~ subsections 1, 2 and 3, if ~~[a physician]~~ an agency which provides child welfare services believes that a psychotropic medication must be ~~[prescribed]~~ administered to a child, the ~~[physician, or the]~~ agency ~~[which provides child welfare services]~~ may, on behalf of the child, ~~[may]~~ file a petition with a court of competent jurisdiction for an order authorizing the ~~[prescription]~~ administration of the psychotropic medication to the child. The petition must include:

(a) The name and age of the child;

(b) A description of the diagnosis and ~~[behavior]~~ symptoms for which the psychotropic medication is sought to be prescribed;

(c) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;

(d) The expected results of the psychotropic medication;

(e) ~~[A description of each side effect and any contraindication of the psychotropic medication;~~

~~(f) Alternative methods or medications, if any, which may be used to treat the diagnosis or behavior of the child;]~~ A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication; and

~~[(g)]~~ (f) The anticipated consequences of not ~~[prescribing]~~ administering the psychotropic medication to the child.

~~[3.]~~ 5. If a petition is filed pursuant to subsection ~~[2,]~~ 4, the court shall, within 7 judicial days after receiving the petition:

(a) Approve the petition;

(b) Deny the petition;

(c) Upon request of the parent, legal guardian or attorney of the child, set a time and date for a hearing on the petition; or

(d) If the court determines appropriate, authorize the parent or legal guardian of the child to make a decision concerning the prescription of the psychotropic medications.

~~[4.]~~ 6. A foster parent, or other person responsible for the care of a child who is in the custody of an agency which provides child welfare services, other than the parent or legal guardian who has the authority to make medical decisions for the child, who obtains a prescription for a psychotropic medication for the child shall obtain authorization from the agency before administering the medication to the child if the child is:

(a) Under 6 years of age; or

(b) Being prescribed for more than five psychotropic medications.

7. A person who administers a psychotropic medication to a child who is in the custody of an agency which provides child welfare services shall comply with the protocol concerning the use of the medication as indicated by the prescribing physician and, if applicable, the order of a court issued pursuant to subsection ~~[3.~~

~~5.]~~ 5.

8. A child who is in the custody of an agency which provides child welfare services who is admitted to a public or private mental health facility under conditions of an emergency may be prescribed and administered a psychotropic medication, and such medication is not subject to review pursuant to the provisions of this section for 21 days after the child is admitted. Within 21 days after a child is admitted to a mental health facility under conditions of an emergency, the agency which provides child welfare shall:

(a) Authorize the continued administration of the medication in accordance with the provisions of subsections 1, 2 and 3; or

(b) If appropriate, file a petition on behalf of the child pursuant to subsection 4 to continue the administration of a psychotropic medication.

9. A child who is prescribed a psychotropic medication before the child enters the custody of an agency which provides child welfare services shall

continue to take such medication and such medication is not subject to review ~~[by a court]~~ pursuant to the provisions of this section. The provisions of this subsection do not apply to any changes in the prescription or additional prescriptions given to the child after he enters the custody of the agency which provides child welfare services.

~~[6.]~~ 10. The Division, in consultation with an agency which provides child welfare services located in a county whose population is 100,000 or more, shall adopt regulations to carry out the provisions of this section.

~~[7.]~~ 11. As used in this section, "psychotropic medication" means any medication which affects the central nervous system to treat psychiatric disorders or illness, including, without limitation, antipsychotic medications, mood stabilizers, antidepressants, antipanic agents, antiobsessive agents, antianxiety agents and psychostimulants.

Sec. 2. 1. The Division of Child and Family Services of the Department of Health and Human Services, in consultation with agencies which provide child welfare services, officers and employees of the district courts in this State and mental health professionals who provide services to children shall review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of agencies which provide child welfare services in this State.

2. On or before July 1, 2010, the Division of Child and Family Services shall submit a report relating to the review conducted pursuant to subsection 1, the regulations adopted pursuant to section 1 of this act and any recommendations for legislation to:

(a) The Legislative Committee on Health Care; and

(b) Each mental health consortium established pursuant to NRS 433B.333.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske, Carlton, Wiener and Nolan.

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

SENATOR CEGAVSKE:

Amendment No. 448 revises Senate Bill No. 293. The amendment removes the requirement that a physician obtain the approval of a court of competent jurisdiction before prescribing a psychotropic medication to a child in the custody of a child welfare agency; instead, a child welfare agency is required to obtain the consent of a parent or guardian of a child in the custody of a child welfare agency before authorizing the administration of psychotropic drugs.

The Division of Child and Family Services is required to review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of a child welfare agency and report its findings to the Legislative Committee on Health Care and the mental health consortiums.

SENATOR CARLTON:

My reading of this amendment is that this child is better suited being away from his or her parents to protect him for whatever reason, but yet, we are going back to these same parents to get permission to give that child drugs. I see a catch 22 situation for the child.

SENATOR CEGAVSKE:

This came from Tom Morton, and the testimony was that sometimes there is a situation where the parents are not able to help with the decisions or they cannot be located. If the Division cannot get any information within five days, in section 1, subsection 2, line 24, it explains that. The custody situation is where the Division can at least get the signed permission. If they cannot, then, the legal route must be used. The parents have to be given the opportunity to say "yes" or "no." Then, the Division can go through the legal process.

SENATOR WIENER:

In the Saturday hearing we held in Las Vegas, as well as the follow-up while we continue to process the measure, it has been the intent to help families make decisions for their own children whenever possible. Additional provisions in the bill address when families have some level of incapacity or inaccessibility to help make those decisions; then, the State has the opportunity to step in so the child will receive seamless medical care. There are also caps put on how many drugs as well as age-specific provisions in the measure. As those provisions address the best interests of the child. When the family cannot participate; then, the State steps in for the best interest of the child.

SENATOR NOLAN:

I had the same concerns regarding this bill. Often a child is taken into protective services has a physician. It is essential that the child who is taken into protective services have their own physician follow through with that physician's care at least for the most recent time with their family. The family doctor who prescribed these medications is familiar with the child. It is essential that an effort is made to contact the parents so the parents can contact the child's physician.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 295.

Bill read second time.

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

Amendment No. 467.

"SUMMARY—Revises provisions relating to dentistry. (BDR 54-913)"

"AN ACT relating to dentistry; providing certain exceptions from the list of persons deemed to be practicing dentistry; providing that certain acts are not precluded pursuant to the statutes governing dentistry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) Section ~~[4]~~ 5 of this bill revises that list to provide that a person may provide goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or certain entities, with certain limitations.

Section 2 of this bill sets forth a list of certain acts which are not precluded by the provisions of chapter 631 of NRS, including certain management services and the ownership of certain assets used in a dental practice, office or clinic.

Section 3 of this bill provides that the contracting for, provision of and payment for goods or services to a dental practice, office or clinic under certain circumstances do not constitute violations of law or cause for disciplinary action under chapter 631 of NRS.

Section 4 of this bill requires a person who provides management services to a dental practice, office or clinic to register certain information with the Board.

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 the provisions set forth as sections 2 , ~~[and]~~ 3 *and 4* of this act.

Sec. 2. *Nothing in this chapter precludes a person or entity not licensed by the Board from:*

1. Owning or leasing any tangible or intangible assets used in a dental practice, office or clinic. These assets include, without limitation, real property, furnishings, equipment and inventory. These assets do not include patients' dental records as they relate to clinical care.

2. Employing or contracting for the services of personnel other than licensed dentists and hygienists.

3. Managing the business of a dental practice, office or clinic but not the clinical practice of dentistry.

Sec. 3. *1. It is not a violation of NRS 631.395, or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for a person described in paragraph (f) of subsection 2 of NRS 631.215 to provide, or receive payment for providing, goods or services in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.*

2. It is not a violation of NRS 631.346 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with a person described in and operating in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

Sec. 4. A person who manages the business of a dental practice, office or clinic shall register with the Board:

1. The name and business address of the person;

2. The address of the dental practice, office or clinic of the business which the person manages; and

3. The names of the licensed dentist or other entity not prohibited from owning or operating a dental practice, office or clinic whose business the person manages.

~~[Sec. 4.]~~ *Sec. 5.* 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) Prohibits a person from providing goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not ~~[exercise]~~ :

(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues of the dental practice, office or clinic; or

(2) Exercise any authority or control over:

~~[(1)]~~ (I) The clinical judgment of a licensed dentist or relieve a licensed dentist of responsibility for oversight of all clinical aspects of the dental practice.

~~[(2)]~~ (II) The formation or approval of any contract for the provision of dental services to a patient by a licensed dentist.

~~[(3)]~~ (III) The hiring or firing of licensed dentists or hygienists or the material clinical terms of the relationship between a licensed dentist and other licensed dentists or hygienists.

~~[(4)]~~ (IV) The referrals by a licensed dentist to another licensed dentist or place any restriction or limitation on referral of patients to a specialist or any other practitioner a licensed dentist determines is necessary.

~~[(5)]~~ (V) A licensed dentist's use of any type of procedure on a patient or establishment of a treatment plan for a patient.

~~[(6)]~~ (VI) Patient records to the exclusion of the applicable licensed dentist or the applicable patient.

~~[(7)]~~ (VII) A licensed dentist's schedule, including time spent with any patient, or place conditions on the number of patients a licensed dentist may see in a period of time.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 467 to Senate Bill No. 295 requires a person who manages a dental practice, office or clinic to register with the Board of Dental Examiners. The amendment also prohibits a person who provides goods or services to a dental practice, office or clinic from providing such goods or services in exchange for payments based on a percentage or share of revenues of that business. This is known as the fee-splitting amendment. That will no longer be a portion of that bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 319.

Bill read second time.

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

Amendment No. 260.

"SUMMARY—Revises provisions governing certain reports of sentinel events and related events. (BDR 40-828)"

"AN ACT relating to health care; ~~[establishing requirements for reports of near-miss events by medical facilities;]~~ revising provisions relating to reports of sentinel events; requiring certain investigations relating to sentinel events *;* ~~[and near-miss events;]~~ requiring the Health Division of the Department of Health and Human Services to prepare an annual summary of the reports; *requiring the Health Division to study certain issues relating to the tracking and reporting of near-miss events*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. (NRS 439.835) ~~[Section 6 of this bill requires reports of near-miss events, which are defined in section 2 of this bill as an unplanned event that did not result in injury, illness or damage to a patient but had the potential to cause such injury, illness or damage.]~~

Section 3 of this bill requires a medical facility which reports a sentinel event ~~[or a near-miss event]~~ to conduct an investigation into the cause of the event and to implement a plan to remedy the cause.

Section 4 of this bill requires certain medical facilities to participate in the National Healthcare Safety Network, established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. Section 4 also requires the medical facilities to authorize the Health Division to access the information submitted as part of the Network and requires the Health Division to analyze the information.

Existing law requires the Department to carry out programs to increase awareness of information concerning hospitals and surgical centers for ambulatory patients and to maintain an Internet website for information concerning hospitals and surgical centers. (NRS 439A.200-439A.290) Sections 7 and 12 of this bill require the Health Division to prepare an annual summary of the reports of sentinel events ~~[and near-miss events]~~ and to provide that summary for inclusion on the Internet website. (NRS 439.840, 439A.270)

The Health Division is required to carry out provisions relating to the reports of sentinel events and, to the extent of legislative appropriation, contract with a quality improvement organization to analyze and report trends regarding sentinel events. (NRS 439.840, 439.845) Section 8 of this bill eliminates the requirement to contract with a quality improvement organization and requires the Health Division to carry out the duties previously assigned to the quality improvement organization.

~~[Section 14 of this bill requires each hospital to include on discharge forms the social security number of each patient discharged. (NRS 449.485)]~~

Sections 15, 18 and 19 of this bill require the Board of Medical Examiners, the State Board of Nursing and the State Board of Osteopathic Medicine to report to the Health Division any sentinel event ~~[or near-miss event]~~ identified by the board.

Section 22 of this bill requires the Health Division to investigate options for creating a unique patient identification mechanism to allow a patient to be identified from one facility or provider to another without requiring the disclosure of the patient's social security number.

Section 23 of this bill requires the Health Division to study the feasibility of tracking and reporting near-miss events as part of the reports of sentinel events and to define the term "near-miss event."

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~*[*"Near-miss event" means an unplanned event that did not result in injury, illness or damage to a patient but had the potential to cause such injury, illness or damage.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~*[1.]*~~ *A medical facility shall, upon reporting a sentinel event* ~~*[or near-miss event]*~~ *pursuant to NRS 439.835, conduct an investigation concerning the causes or contributing factors, or both, of the sentinel event* ~~*[or near-miss event]*~~ *and implement a plan to remedy the causes or contributing factors, or both, of the sentinel event . [or near-miss event.*

~~*2. The medical facility shall provide to the Health Division a final report of the investigation conducted pursuant to subsection 1 and each remedy implemented pursuant to that subsection.*~~

~~*3. The Health Division shall prepare a compilation of reports of sentinel events and near-miss events and the corresponding report submitted pursuant to subsection 2 and provide the compilation to the State Board and the Nevada Academy of Health. The State Board shall prescribe the form and content of such a compilation.*~~

~~*4. If a medical facility violates any provision of this section, the Health Division may impose an administrative sanction pursuant to NRS 449.163.]*~~

Sec. 4. *1. Each medical facility which* ~~*[provides]*~~ *provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility, including, without limitation, information relating to* ~~*[central*~~

~~*line-associated bloodstream infections, methicillin-resistant Staphylococcus aureaus, multi-drug resistant organisms, ventilator-associated pneumonias, catheter-associated urinary tract infections, surgical site infections, including for coronary artery bypass grafts, and orthopedic]*~~ *infections and procedures.*

2. Each medical facility which ~~*[provides]*~~ *provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.*

3. A medical facility that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall authorize the Health Division to access all information submitted to the system, and the Health Division shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.

4. The Health Division shall analyze the information submitted to the system by medical facilities pursuant to this section and ~~*[:*~~

~~*(a) Prepare a report of the risk-adjusted aggregate data for surgical site infection rates.*~~

~~*(b) Recommend regulation]*~~ *recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive, and sections* ~~*[2,]*~~ *3 and 4 of this act.*

Sec. 5. NRS 439.800 is hereby amended to read as follows:

439.800 As used in NRS 439.800 to 439.890, inclusive, *and sections* ~~*[2,]*~~ *3 and 4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 439.802 to 439.830, inclusive, ~~*[and section 2 of this act]*~~ have the meanings ascribed to them in those sections.

Sec. 6. ~~[NRS 439.835 is hereby amended to read as follows:~~

~~439.835 1. Except as otherwise provided in subsection 2:~~

~~(a) A person who is employed by a medical facility shall, within 24 hours after becoming aware of a sentinel event *or near miss event* that occurred at the medical facility, notify the patient safety officer of the facility of the sentinel event [;] *or near-miss event;* and~~

~~(b) The patient safety officer shall, within 13 days after receiving notification pursuant to paragraph (a), report the date, the time and a brief description of the sentinel event *or near-miss event* to:~~

~~(1) The Health Division; and~~

~~(2) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.~~

~~2. If the patient safety officer of a medical facility personally discovers or becomes aware, in the absence of notification by another employee, of a sentinel event *or near-miss event* that occurred at the medical facility, the~~

~~patient safety officer shall, within 14 days after discovering or becoming aware of the sentinel event~~ , ~~*or near-miss event*~~, ~~report the date, time and brief description of the sentinel event *or near-miss event* to:~~

~~(a) The Health Division; and~~

~~(b) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.~~

~~3. The Administrator shall prescribe the manner in which reports of sentinel events *and near-miss events* must be made pursuant to this section.]~~ *(Deleted by amendment.)*

Sec. 7. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall *:* ~~[, to the extent of legislative appropriation and authorization:]~~

(a) Collect and maintain reports received pursuant to NRS 439.835; ~~[and]~~

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access ~~[.]~~ *;*

(c) Annually prepare a report of sentinel events ~~[and near-miss events]~~ reported pursuant to NRS 439.835 by a medical facility located in a county whose population is 100,000 or more, including, without limitation, the type of event, the number of events and the medical facility which reported the event; and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in *this section and* NRS 239.0115, reports received pursuant to NRS 439.835 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 8. NRS 439.845 is hereby amended to read as follows:

439.845 1. The Health Division shall ~~[, to the extent of legislative appropriation and authorization, contract with a quality improvement organization, as defined in 42 C.F.R. § 400.200, to]~~ analyze and report trends regarding sentinel events ~~*[and near-miss events.]*~~ .

2. When the Health Division receives notice from a medical facility that the medical facility has taken corrective action to remedy the causes or contributing factors, or both, of a sentinel event ~~*[or near-miss event,]*~~ , the Health Division shall:

(a) Make a record of the information;

(b) Ensure that the information is aggregated so as not to reveal the identity of a specific person or medical facility; and

(c) ~~[Transmit the information to a quality improvement organization.~~

~~3. A quality improvement organization to whom information is transmitted pursuant to subsection 2 shall, at]~~ *At* least quarterly, report its

findings regarding the analysis of aggregated trends of sentinel events ~~*[and near-miss events]*~~ to the Repository for Health Care Quality Assurance.

Sec. 9. ~~[NRS 439.855 is hereby amended to read as follows:~~

~~439.855 1. Each medical facility that is located within this state shall designate a representative for the notification of patients who have been involved in sentinel events or *near-miss events* at that medical facility.~~

~~2. A representative designated pursuant to subsection 1 shall, not later than 7 days after discovering or becoming aware of a sentinel event or *near-miss event* that occurred at the medical facility, provide notice of that fact to each patient who was involved in that sentinel event [.] or *near-miss event.*~~

~~3. The provision of notice to a patient pursuant to subsection 2 must not, in any action or proceeding, be considered an acknowledgment or admission of liability.~~

~~4. A representative designated pursuant to subsection 1 may or may not be the same person who serves as the facility's patient safety officer.]~~ *(Deleted by amendment.)*

Sec. 10. ~~[NRS 439.870 is hereby amended to read as follows:~~

~~439.870 1. A medical facility shall designate an officer or employee of the facility to serve as the patient safety officer of the medical facility.~~

~~2. The person who is designated as the patient safety officer of a medical facility shall:~~

~~(a) Serve on the patient safety committee.~~

~~(b) Supervise the reporting of all sentinel events *and near-miss events* alleged to have occurred at the medical facility, including, without limitation, performing the duties required pursuant to NRS 439.835.~~

~~(c) Take such action as he determines to be necessary to ensure the safety of patients as a result of an investigation of any sentinel event *or near-miss event* alleged to have occurred at the medical facility.~~

~~(d) Report to the patient safety committee regarding any action taken in accordance with paragraph (c).]~~ *(Deleted by amendment.)*

Sec. 11. ~~[NRS 439.885 is hereby amended to read as follows:~~

~~439.885 *1.* If a medical facility:~~

~~[1.] *(a)* Commits a violation of any provision of NRS 439.800 to 439.890, inclusive, or for any violation for which an administrative sanction pursuant to NRS 449.163 would otherwise be applicable; and~~

~~[2.] *(b)* Of its own volition, reports the violation to the Administrator,~~

~~→ such a violation must not be used as the basis for imposing an administrative sanction pursuant to NRS 449.163.~~

~~*2. The Health Division shall quarterly report each penalty, including the name of the medical facility, which is sanctioned for a violation of NRS 439.800 to 439.890, inclusive, and sections 2, 3 and 4 of this act.]*~~ *(Deleted by amendment.)*

Sec. 12. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

(1) Geographic location of each hospital;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

(1) Geographic location of each surgical center for ambulatory patients;

(2) Type of medical diagnosis; and

(3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for:

(1) The inpatients and outpatients of each hospital; and

(2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public; ~~[and]~~

(g) *Include the annual summary of reports of sentinel events* ~~*[and near-miss events]*~~ *prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; and*

(h) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 13. ~~[NRS 449.205 is hereby amended to read as follows:~~

~~449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:~~

~~(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:~~

~~(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;~~

~~(2) Reports a sentinel event *or a near miss event* to the Health Division pursuant to NRS 439.835; or~~

~~(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2).~~

~~(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who, in accordance with the policy, if any, established by the medical facility:~~

~~(1) Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and~~

~~(2) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse,~~

~~licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless such refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto.~~

~~2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.~~

~~3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.~~

~~4. As used in this section:~~

~~(a) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.~~

~~(b) "Retaliate or discriminate":~~

~~(1) Includes, without limitation, the following action if such action is taken solely because the employee or the registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:~~

~~(I) Frequent or undesirable changes in the location where the employee works;~~

~~(II) Frequent or undesirable transfers or reassignments;~~

~~(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~

~~(IV) A demotion;~~

~~(V) A reduction in pay;~~

~~(VI) The denial of a promotion;~~

~~(VII) A suspension;~~

~~(VIII) A dismissal;~~

~~(IX) A transfer; or~~

~~(X) Frequent changes in working hours or workdays.~~

~~(2) Does not include action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.]~~ *(Deleted by amendment.)*

Sec. 14. ~~[~~NRS 449.485 is hereby amended to read as follows:

~~449.485 1. Each hospital in this State shall use for all patients discharged a form prescribed by the Director and shall include in the form all information required by the Department [.]~~ ~~*, including, without limitation, the social security number, if applicable, of each patient discharged.*~~ ~~Any form~~

~~prescribed by the Director must be a form that is commonly used nationwide by hospitals, if applicable, and comply with federal laws and regulations.~~

~~2. Each hospital in this State shall, on a monthly basis, report to the Department the information required to be included in the form for each patient. The information reported must be complete, accurate and timely.~~

~~3. Each insurance company or other payer shall accept the form as the bill for services provided by hospitals in this State.~~

~~4. Except as otherwise provided in subsection 5, each hospital in this State shall provide the information required pursuant to subsection 2 in an electronic form specified by the Department.~~

~~5. The Director may exempt a hospital from the requirements of subsection 4 if requiring the hospital to comply with the requirements would cause the hospital financial hardship.~~

~~6. The Department shall use the information submitted pursuant to this section for the program established pursuant to NRS 439A.220 to increase public awareness of health care information concerning the hospitals in this State.~~] *(Deleted by amendment.)*

Sec. 15. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies a sentinel event ~~[or near-miss event]~~ which is required to be reported by a medical facility pursuant to NRS 439.835.

2. ~~[As used in this section:~~

~~(a) "Near-miss event" has the meaning ascribed to it in section 2 of this act.~~

~~(b) "Sentinel event" has the meaning ascribed to it in NRS 439.830.]~~ Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of a sentinel event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 16. ~~[~~NRS 630.293 is hereby amended to read as follows:

~~630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician or a person acting on behalf of the employee who in good faith:~~

~~(a) Reports to the Board information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;~~

~~(b) Reports a sentinel event *or a near-miss event* to the Health Division pursuant to NRS 439.835; or~~

~~(c) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board or another governmental entity relating to conduct described in paragraph (a) or (b).~~

~~2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician because the employee has taken an action described in subsection 1.~~

~~3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician to take an action described in subsection 1.~~

~~4. As used in this section, "retaliate or discriminate":~~

~~(a) Includes, without limitation, the following action if such action is taken solely because the employee took an action described in subsection 1:~~

~~(1) Frequent or undesirable changes in the location where the employee works;~~

~~(2) Frequent or undesirable transfers or reassignments;~~

~~(3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~

~~(4) A demotion;~~

~~(5) A reduction in pay;~~

~~(6) The denial of a promotion;~~

~~(7) A suspension;~~

~~(8) A dismissal;~~

~~(9) A transfer; or~~

~~(10) Frequent changes in working hours or workdays.~~

~~(b) Does not include action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.~~] *(Deleted by amendment.)*

Sec. 17. ~~[NRS 630.30665 is hereby amended to read as follows:~~

~~630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event or *near-miss event* arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division of the Department of Health and Human Services for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly~~

~~filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 8 of NRS 630.306.~~

~~4. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsections 1 and 2; and~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section:~~

~~(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.~~

~~(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.~~

~~(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.~~

~~(d) *"Near-miss event" has the meaning ascribed to it in section 2 of this act.*~~

~~*(c)* "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]~~ *(Deleted by amendment.)*

Sec. 18. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies a sentinel event ~~[or near-miss event]~~ which is required to be reported by a medical facility pursuant to NRS 439.835.

2. ~~[As used in this section:~~

~~(a) "Near-miss event" has the meaning ascribed to it in section 2 of this act.~~

~~(b) "Sentinel event" has the meaning ascribed to it in NRS 439.830.]~~ Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of a sentinel event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 19. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall immediately notify the Health Division of the Department of Health and Human Services if the Board identifies a sentinel event ~~[or near-miss event]~~ which is required to be reported by a medical facility pursuant to NRS 439.835.

2. ~~[As used in this section:~~

~~(a) "Near-miss event" has the meaning ascribed to it in section 2 of this act.~~

~~(b) "Sentinel event" has the meaning ascribed to it in NRS 439.830.]~~ Except as otherwise provided in NRS 239.0115, any information provided to the Health Division pursuant to this section relating to the identification of a sentinel event is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 20. ~~[NRS 633.505 is hereby amended to read as follows:~~

~~633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:~~

~~(a) Reports to the Board information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;~~

~~(b) Reports a sentinel event *or a near-miss event* to the Health Division pursuant to NRS 439.835; or~~

~~(c) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board or another governmental entity relating to conduct described in paragraph (a) or (b).~~

~~2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician because the employee has taken an action described in subsection 1.~~

~~3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician to take an action described in subsection 1.~~

~~4. As used in this section, "retaliate or discriminate":~~

~~(a) Includes, without limitation, the following action if such action is taken solely because the employee took an action described in subsection 1:~~

~~(1) Frequent or undesirable changes in the location where the employee works;~~

~~(2) Frequent or undesirable transfers or reassignments;~~

~~(3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;~~

~~(4) A demotion;~~

~~(5) A reduction in pay;~~

~~(6) The denial of a promotion;~~

~~(7) A suspension;~~

~~(8) A dismissal;~~

~~(9) A transfer; or~~

~~(10) Frequent changes in working hours or workdays.~~

~~(b) Does not include action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.]~~ *(Deleted by amendment.)*

Sec. 21. ~~[NRS 633.524 is hereby amended to read as follows:~~

~~633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event *or near miss event* arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the~~

~~Administrator of the Health Division of the Department of Health and Human Services for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice osteopathic medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.~~

~~4. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsections 1 and 2; and~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section:~~

~~(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.~~

~~(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.~~

~~(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a~~

~~combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.~~

~~(d) *"Near-miss event" has the meaning ascribed to it in section 2 of this act.*~~

~~*(e)* "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.~~] *(Deleted by amendment.)*

Sec. 22. 1. The Health Division of the Department of Health and Human Services shall, in cooperation with medical facilities, providers of health care and any agency of the Federal Government, investigate options for creating a unique patient identification mechanism to allow a patient to be identified from one facility or provider to another without requiring the disclosure of a social security number.

2. The Health Division shall, on or before July 1, 2010, report the results of its investigation to the Legislative Committee on Health Care.

Sec. 23. 1. The Health Division of the Department of Health and Human Services shall, in cooperation with medical facilities, a quality improvement organization of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services and any other persons deemed necessary by the Health Division, study the feasibility of tracking and reporting near-miss events as part of the reports of sentinel events pursuant to NRS 439.835, including, without limitation, defining the term "near-miss event," investigating a manner for tracking near-miss events and determining the feasibility of reporting near-miss events.

2. The Health Division shall, at least quarterly, report to the Legislative Committee on Health Care concerning the progress of the study conducted pursuant to subsection 1.

3. On or before July 1, 2010, the Health Division shall report to the Legislative Committee on Health Care the results of the study conducted pursuant to subsection 1 and shall provide to the Committee recommendations for defining, tracking and reporting near-miss events which occur at medical facilities in this State.

Sec. 24. 1. This section and sections 1 to 22, inclusive, of this act become effective on October 1, 2009.

2. Section 23 of this act becomes effective on July 1, 2009.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 260 to Senate Bill No. 319 removes the requirement to report near-miss events and, rather, requires the Health Division to study the feasibility of tracking and reporting near-miss events as part of the reports on sentinel events and to define the term "near-miss

event" and removes the requirement for each hospital to include on discharge forms the Social Security number of each patient discharged.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 240.

"SUMMARY—Makes various changes relating to business. (BDR 7-1118)"

"AN ACT relating to business associations; clarifying that an attorney who is a registered agent is not required to report certain privileged information under certain circumstances; *increasing the fine imposed on certain foreign business entities that transact business in this State without qualifying to do business in this State; imposing a fine on persons purporting to do business in this State as a business entity without legally forming that entity;* making various technical corrections to various provisions relating to business associations; revising the provisions relating to dissenters' rights; revising the provisions relating to the maintenance of certain lists by certain business associations; revising the provisions relating to the proper venue for the posting of certain notices and the filing of certain actions and for certain other purposes; establishing provisions relating to restricted limited-liability companies and restricted limited partnerships; making various other changes to the provisions relating to business associations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a registered agent to notify the Commissioner of Financial Institutions if the registered agent determines that a represented entity is not properly licensed. (NRS 77.410, 604A.710, 675.380) Sections 1, 81 and 82 of this bill clarify that a registered agent who is an attorney is not required to make such a notification if doing so would violate the attorney-client privilege.

Sections 16, 36.1, 48.5, 55.5 and 56.4 of this bill: (1) increase from $500 to $5,000 the fine imposed on certain foreign business entities that transact business in this State without registering with the Secretary of State or otherwise qualifying to do business in this State; and (2) allow the district attorney or Attorney General to recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding. (NRS 80.055, 86.548, 87A.610, 88.600, 88A.750) Sections 17.6, 36.6, 39.7 and 49.8 of this bill impose the same fine on foreign nonprofit corporations, foreign registered limited-liability partnerships and foreign limited-liability limited partnerships that do business in this State without registering with the Secretary of State.

Sections 1.5, 17.4, 27.5, 36.4, 39.3, 39.5, 49.4, 49.6, 56.2 and 56.6 of this bill provide that: (1) a person is subject to a fine of $5,000 if the person is purporting to do business in this State as a business entity but does not form that entity in accordance with the provisions of existing law; and (2) the district attorney or Attorney General may recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.

Sections 2-14 of this bill make technical corrections to various provisions relating to corporations. (Chapter 78 of NRS)

Existing law provides that certain notices for certain purposes must be posted and certain actions must be filed in certain counties where the principal office of the entity is located or, if the principal office is not located in this State, in the district court in Carson City. (NRS 78.275, 78.345, 78.630, 82.306, 82.471, 82.486) Sections 7, 8, 15, 19, 21 and 22 of this bill provide that instead of the proper venue being the district court in Carson City, the proper venue will lie in the county in which the entity's registered office is located.

Sections 26 and 27 of this bill provide for the formation of a restricted limited-liability company and prescribe the requirements pertaining to such entities. (Chapter 86 of NRS)

Sections 28 and 33 of this bill provide for certain rights of members relating to recordkeeping and the inspection of certain records.

Sections 38, 39 and ~~[49]~~ *49.2* of this bill provide for the formation of a restricted limited partnership and prescribe the requirements pertaining to such entities. (Chapters 87A and 88 of NRS)

Sections 57 and 58 of this bill revise the provisions relating to professional organizations to permit ownership of such entities if at least one stockholder or member is admitted to the State Bar of Nevada. (NRS 89.040, 89.070)

Sections 59-78 of this bill make various changes relating to dissenters' rights, in accordance with recent changes that were made to the Model Business Corporation Act . ~~[and the Delaware General Corporation Law.]~~ (Chapter 92A of NRS)

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

Section 1. NRS 77.410 is hereby amended to read as follows:

77.410 1. If a registered agent knows or reasonably should know that the entity for which he is the registered agent engages in any business activity that is regulated pursuant to chapter 604A or 675 of NRS and the registered agent or a subsidiary or affiliate of the registered agent performs any service for the represented entity other than:

(a) Delivering documents for filing to state or local governmental entities;

(b) Forwarding unopened mail;

(c) Any service described in NRS 77.400;

(d) Accounting services incidental to the formation of the entity for which he serves as registered agent provided in accordance with chapter 628 of NRS; or

(e) Legal services incidental to the formation of the entity for which he serves as registered agent if he is an attorney who is licensed to practice law in this State or performs such services under the supervision of an attorney who is licensed to practice law in this State,

➥ the registered agent shall verify with the Division of Financial Institutions of the Department of Business and Industry that the represented entity is licensed pursuant to chapter 604A or 675 of NRS, as applicable.

2. [If] *Except as otherwise provided in this subsection, if* a registered agent determines pursuant to subsection 1 that the represented entity is not licensed as required pursuant to chapter 604A or 675 of NRS, the registered agent shall notify the Commissioner of Financial Institutions. *This subsection does not require a registered agent who is an attorney to notify the Commissioner if doing so would violate any privilege pursuant to NRS 49.035 to 49.115, inclusive, or the Nevada Rules of Professional Conduct.*

3. A registered agent who accepts an appointment to act as the registered agent for a represented entity whom the registered agent knows or reasonably should know engages in business activities which are regulated pursuant to chapter 604A or 675 of NRS shall not perform any financial transactions on behalf of the represented entity in his capacity as registered agent.

Sec. 1.5. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a corporation organized and existing pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country, who is purporting to do business in this State as a corporation and who fails or neglects to comply with the provisions of NRS 78.030 to 78.045, inclusive, 78A.020, 81.060, 84.015 to 84.040, inclusive, or 89.040, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 2. NRS 78.130 is hereby amended to read as follows:

78.130 1. Every corporation must have a president, a secretary and a treasurer ~~[.]~~ *, or the equivalent thereof.*

2. Every corporation may also have one or more vice presidents, assistant secretaries and assistant treasurers, and such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors. Any natural person may hold two or more offices.

4. An officer holds office after the expiration of his term until a successor is chosen or until his resignation or removal before the expiration of his term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

Sec. 3. NRS 78.139 is hereby amended to read as follows:

78.139 1. Except as otherwise provided in subsection 2 or the articles of incorporation, directors and officers confronted with a change or potential change in control of the corporation have:

(a) The duties imposed upon them by subsection 1 of NRS 78.138; and

(b) The benefit of the presumptions established by subsection 3 of that section.

2. If directors and officers take action to resist a change or potential change in control of a corporation which impedes the exercise of the right of stockholders to vote for or remove directors:

(a) The directors must have reasonable grounds to believe that a threat to corporate policy and effectiveness exists; and

(b) The action taken which impedes the exercise of the stockholders' rights must be reasonable in relation to that threat.

➥ If those facts are found, the directors and officers have the benefit of the presumption established by subsection 3 of NRS 78.138.

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

(a) Actions that only affect the time of the exercise of stockholders' voting rights; or

(b) The adoption or ~~[execution]~~ *signing* of plans, arrangements or instruments that deny rights, privileges, power or authority to a holder of a specified number or fraction of shares or fraction of voting power.

4. The provisions of subsections 2 and 3 do not permit directors or officers to abrogate any right conferred by statute or the articles of incorporation.

5. Directors may resist a change or potential change in control of the corporation if the directors by a majority vote of a quorum determine that the change or potential change is opposed to or not in the best interest of the corporation:

(a) Upon consideration of the interests of the corporation's stockholders and any of the matters set forth in subsection 4 of NRS 78.138; or

(b) Because the amount or nature of the indebtedness and other obligations to which the corporation or any successor to the property of either may become subject, in connection with the change or potential change in control, provides reasonable grounds to believe that, within a reasonable time:

(1) The assets of the corporation or any successor would be or become less than its liabilities;

(2) The corporation or any successor would be or become insolvent; or

(3) Any voluntary or involuntary proceeding pursuant to the federal bankruptcy laws concerning the corporation or any successor would be commenced by any person.

Sec. 4. NRS 78.195 is hereby amended to read as follows:

78.195 1. If a corporation desires to have more than one class or series of stock, the articles of incorporation must prescribe, or vest authority in the board of directors to prescribe, the classes, series and the number of each class or series of stock and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of stock. If more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors passed pursuant to a provision of the articles must prescribe a distinguishing designation for each class and series. The voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each class or series of stock must be described in the articles of incorporation or the resolution of the board of directors before the issuance of shares of that class or series.

2. All shares of a series must have voting powers, designations, preferences, limitations, restrictions and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

3. Unless otherwise provided in the articles of incorporation, no stock issued as fully paid up may ever be assessed and the articles of incorporation must not be amended in this particular.

4. Any rate, condition or time for payment of distributions on any class or series of stock may be made dependent upon any fact or event which may be ascertained outside the articles of incorporation or the resolution providing for the distributions adopted by the board of directors if the manner in which a fact or event may operate upon the rate, condition or time of payment for the distributions is stated in the articles of incorporation or the resolution. As used in this subsection, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

5. The provisions of this section do not restrict the directors of a corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant ~~[rights to stockholders]~~ or ~~[that]~~ deny rights, privileges, power or authority to a holder *or holders* of a specified number of shares or percentage of share ownership or voting power.

Sec. 5. NRS 78.205 is hereby amended to read as follows:

78.205 1. A corporation is not obligated to but may sign and deliver a certificate for or including a fraction of a share.

2. In lieu of signing and delivering a certificate for a fraction of a share, a corporation may:

(a) Pay to any person otherwise entitled to become a holder of a fraction of a share an amount in cash based on a per share value, and that value or the method of determining that value must be specified in the articles, plan of reorganization, plan of merger or exchange, resolution of the board of directors, or other instrument pursuant to which the fractional share would otherwise be issued;

(b) Issue such additional fraction of a share as is necessary to increase the fractional share to a full share; or

(c) Sign and deliver registered or bearer scrip over the manual or facsimile signature of an officer of the corporation or of its agent for that purpose, exchangeable as provided on the scrip for full share certificates, but the scrip does not entitle the holder to any rights as a stockholder except as provided on the scrip. The scrip may provide that it becomes void unless the rights of the holders are exercised within a specified period and may contain any other provisions or conditions that the corporation deems advisable. Whenever any scrip ceases to be exchangeable for full share certificates, the shares that would otherwise have been issuable as provided on the scrip are deemed to be treasury shares unless the scrip contains other provisions for their disposition.

3. Any proposed corporate action that would result in *only* money *being paid* or scrip being ~~[delivered instead of fractional shares]~~ *issued* to stockholders who:

(a) Before the proposed corporate action becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ *a fraction of a share* in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposed corporate action is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ *those* provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6. NRS 78.2055 is hereby amended to read as follows:

78.2055 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to decrease the number of issued and outstanding shares of a class or series held by each stockholder of record at the effective date and time of the change without correspondingly decreasing the number of authorized shares of the same class or series may do so if:

(a) The board of directors adopts a resolution setting forth the proposal to decrease the number of issued and outstanding shares of a class or series; and

(b) The proposal is approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the affected class or series.

2. If the proposal required by subsection 1 is approved by the stockholders entitled to vote, the corporation may reissue its stock in accordance with the proposal after the effective date and time of the change.

3. Except as otherwise provided in this subsection, if a proposed decrease in the number of issued and outstanding shares of any class or series would adversely alter or change any preference, or any relative or other right given to any other class or series of outstanding shares, then the decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the adversely affected class or series. The decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease if the articles of incorporation specifically deny the right to vote on such a decrease.

4. Any proposal to decrease the number of issued and outstanding shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ *a fraction of a share* in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ *those* provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6.5. *NRS 78.207 is hereby amended to read as follows:*

78.207 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to change the number of shares of a class or series, if

any, of its authorized stock by increasing or decreasing the number of authorized shares of the class or series and correspondingly increasing or decreasing the number of issued and outstanding shares of the same class or series held by each stockholder of record at the effective date and time of the change, may, except as otherwise provided in subsections 2 and 3, do so by a resolution adopted by the board of directors, without obtaining the approval of the stockholders. The resolution may also provide for a change of the par value, if any, of the same class or series of the shares increased or decreased. After the effective date and time of the change, the corporation may issue its stock in accordance therewith.

2. A proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, in the aggregate hold 10 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ *a fraction of a share* in exchange for the cancellation of all ~~[of]~~ their outstanding shares,

➥ must be approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power thereof.

3. Except as otherwise provided in this subsection, if a proposed increase or decrease in the number of authorized shares of any class or series would adversely alter or change any preference or any relative or other right given to any other class or series of outstanding shares, then the increase or decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the increase or decrease, regardless of limitations or restrictions on the voting power thereof. The increase or decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power in each class or series whose preference or rights are adversely affected by the increase or decrease if the articles of incorporation specifically deny the right to vote on such an increase or decrease.

4. Any proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive a fraction of a share in exchange for the cancellation of all of their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to

accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with those provisions and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 7. NRS 78.275 is hereby amended to read as follows:

78.275 1. The directors may at such times and in such amount, as they may from time to time deem the interest of the corporation to require, levy and collect assessments upon the assessable stock of the corporation in the manner provided in this section.

2. Notice of each assessment must be given to the stockholders personally, or by publication once a week for at least 4 weeks, in some newspaper published in the county in which the principal office of the corporation is located or, if the principal office of the corporation is not located in this State, in ~~[Carson City,]~~ *the county in which the corporation's registered office is located,* and in a newspaper published in the county wherein the property of the corporation is situated if in this State.

3. If, after the notice has been given, any stockholder defaults in the payment of the assessment upon the shares held by him, so many of those shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, together with all costs of advertising and expenses of sale. The sale of the shares must be made at the office of the corporation at public auction to the highest bidder, after a notice thereof published for 4 weeks as directed in this section, and a copy of the notice mailed to each delinquent stockholder if his address is known 4 weeks before the sale. At the sale the person who offers to pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder.

Sec. 8. NRS 78.345 is hereby amended to read as follows:

78.345 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 78.330, the district court has jurisdiction in equity, upon application of any one or more stockholders holding stock entitling them to exercise at least 15 percent of the voting power, to order the election of directors in the manner required by NRS 78.330.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ *the county in which the corporation's registered office is located,* and must be brought on behalf of all stockholders desiring to be joined therein. Such notice must be given to the corporation and the stockholders as the court may direct.

3. The directors elected pursuant to this section have the same rights, powers and duties and the same tenure of office as directors elected by the stockholders at the annual meeting held at the time prescribed therefor, next before the date of the election pursuant to this section, would have had.

Sec. 9. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his name on the records of the corporation. If the articles of incorporation, or the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment of the meeting unless the board of directors fixes a new record date for the adjourned meeting. The board of directors must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the

stockholders, the date is the first date on which a valid, written consent is delivered in accordance with the provisions of NRS 78.320.

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that *grant or* deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 10. NRS 78.378 is hereby amended to read as follows:

78.378 1. The provisions of NRS 78.378 to 78.3793, inclusive, apply to any acquisition of a controlling interest in an issuing corporation unless the articles of incorporation or bylaws of the corporation in effect on the 10th day following the acquisition of a controlling interest by an acquiring person provide that the provisions of those sections do not apply to the corporation or to an acquisition of a controlling interest specifically by types of existing or future stockholders, whether or not identified.

2. The articles of incorporation, the bylaws or a resolution adopted by the directors of the issuing corporation may impose stricter requirements on the acquisition of a controlling interest in the corporation than the provisions of NRS 78.378 to 78.3793, inclusive.

3. The provisions of NRS 78.378 to 78.3793, inclusive, do not restrict the directors of an issuing corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that *grant or* deny rights, privileges, power or authority to a holder *or holders* of a specified number of shares or percentage of share ownership or voting power.

Sec. 11. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other corporation, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation; or

(c) Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder.

5. Any:

(a) Reclassification of securities, including, without limitation, any splitting of shares, dividend distributed in shares, or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

➥ proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is directly or indirectly owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax

credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 12. NRS 78.424 is hereby amended to read as follows:

78.424 "Market value," when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 days immediately preceding the date in question on the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, ~~[the highest closing bid quoted with respect to a share during the 30 days preceding the date in question on the National Association of Securities Dealers, Inc.'s, Automated Quotations System or any system then in use, or if no such quotation is available,]~~ the fair market value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 13. NRS 78.437 is hereby amended to read as follows:

78.437 NRS 78.411 to 78.444, inclusive, do not apply to any combination with an interested stockholder who:

1. Was an interested stockholder on January 1, 1991; or

2. ~~[Who first]~~ *First* became an interested stockholder on the date that the resident domestic corporation first became a resident domestic corporation solely as a result of the corporation becoming a resident domestic corporation.

Sec. 14. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for 3 years after the date that the person first became an interested stockholder unless the combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder.

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to ~~[purchase shares]~~ *enter into a transaction by which the person will become an interested stockholder* is made in writing to the board of directors of the resident domestic corporation, the board of

directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the ~~[purchase.]~~ *transaction.*

Sec. 15. NRS 78.630 is hereby amended to read as follows:

78.630 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of money to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or stockholders, any creditors holding 10 percent of the outstanding indebtedness, or stockholders owning 10 percent of the outstanding stock entitled to vote, may, by petition setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or, if the principal office is not located in this State, to the district court in ~~[Carson City]~~ *the county in which the corporation's registered office is located* for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon such inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or stockholders, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 15.3. NRS 78.650 is hereby amended to read as follows:

78.650 1. Any holder or holders of one-tenth of the issued and outstanding stock may apply to the district court ~~[, held in the district where the]~~ *in the county in which the* corporation has its principal place of business ~~[,]~~ *or, if the principal place of business is not located in this State, to the district court in the county in which the corporation's registered office is located,* for an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by and through a receiver appointed by the court, whenever:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct the business or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, sacrifice or loss through attachment, foreclosure, litigation or otherwise;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs, or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature; or

(j) The corporation is not about to resume its business with safety to the public.

2. The application may be for the appointment of a receiver, without at the same time applying for the dissolution of the corporation, and notwithstanding the absence, if any there be, of any action or other proceeding in the premises pending in such court.

3. In any such application for a receivership, it is sufficient for a temporary appointment if notice of the same is given to the corporation alone, by process as in the case of an application for a temporary restraining order or injunction, and the hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists therefor, appoint one or more receivers for such purpose, but in all cases directors or trustees who have been guilty of no negligence nor active breach of duty must be preferred in making the appointment. The court may at any time for sufficient cause make a decree terminating the receivership, or dissolving the corporation and terminating its existence, or both, as may be proper.

5. Receivers so appointed have, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether the corporation is insolvent or not.

Sec. 15.7. *NRS 78A.020 is hereby amended to read as follows:*

78A.020 1. A close corporation must be formed in accordance with NRS 78.030 to 78.055, inclusive, *and section 1.5 of this act,* subject to the following requirements:

(a) All of the issued stock of the corporation of all classes, exclusive of treasury shares, must be represented by certificates and must be held of record by a specified number of persons, not to exceed 30.

(b) All of the issued stock of all classes must be subject to one or more of the restrictions on transfer pursuant to NRS 78A.050.

(c) The corporation shall not offer any of its stock of any class that would constitute a public offering within the meaning of the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.

2. The articles of incorporation of a close corporation must:

(a) Set forth the matters required by NRS 78.035 except that the articles must state that there will be no board of directors if so agreed pursuant to NRS 78A.070.

(b) Contain a heading stating the name of the corporation and that it is a close corporation.

3. The articles of incorporation of a close corporation may set forth the qualifications of stockholders by specifying the classes of persons who are entitled to be holders of record of stock of any class, the classes of persons who are not entitled to be holders of record of stock of any class, or both.

4. To determine the number of holders of record of the stock of a close corporation, stock that is held in joint or common tenancy or by community property must be treated as held by one stockholder.

Sec. 16. NRS 80.055 is hereby amended to read as follows:

80.055 1. Every corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive:

(a) Is subject to a fine of not less than ~~[$500,]~~ *$5,000,* to be recovered in a court of competent jurisdiction; and

(b) Except as otherwise provided in subsection 2, may not commence or maintain any action or proceeding in any court of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.

2. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not comply with the provisions of NRS 80.010 to 80.040, inclusive, within 45 days after the action or proceeding is commenced.

3. When the Secretary of State is advised that a corporation is doing business in contravention of NRS 80.010 to 80.040, inclusive, he ~~[shall report that fact to the Governor. The Governor shall,]~~ *may*, as soon as practicable, instruct the district attorney of the county where the corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. *If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

4. The failure of a corporation to comply with the provisions of NRS 80.010 to 80.040, inclusive, does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 17. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement of its last calendar year's business in two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

(a) The name of the corporation.

(b) The name and title of the corporate officer submitting the statement.

(c) The mailing or street address of the corporation's principal office.

(d) The mailing or street address of the corporation's office in this State, if one exists.

~~[(e) The total assets and liabilities of the corporation at the end of the year.]~~

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of $100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 17.2. Chapter 82 of NRS is hereby amended by adding thereto the provisions of sections 17.4 and 17.6 of this act.

Sec. 17.4. 1. Every person, other than a foreign nonprofit corporation, who is purporting to do business in this State as a corporation and who fails or neglects to establish a corporation in accordance with the provisions of this section and NRS 81.200, 81.450 or 82.081 to 82.116, inclusive, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 17.6. *1. Every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) Except as otherwise provided in subsection 2, may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State.

2. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not qualify to do business in this State within 45 days after the action or proceeding is commenced.

3. When the Secretary of State is advised that a foreign nonprofit corporation is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign nonprofit corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

4. The failure of a foreign nonprofit corporation to qualify to do business in this State in accordance with the laws of this State does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 17.8. *NRS 82.183 is hereby amended to read as follows:*

82.183 1. A corporation shall ~~[maintain at its registered office or principal place of business in this State:~~

~~(a) A current list of its owners of record; or~~

~~(b) A statement indicating where such a list is maintained.~~

~~2. The corporation shall:~~

~~(a) Provide]~~ *provide* the Secretary of State with the name and contact information of the custodian of the ~~[list described in]~~ *members' ledger or duplicate members' ledger kept by the corporation at its registered office pursuant to paragraph (c) of* subsection 1 ~~[.]~~ *of NRS 82.181.* The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

~~[(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.~~

~~3.]~~ *2.* Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to ~~[:~~

~~(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or~~

~~(b) Answer~~] *answer* any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

~~[4.]~~ *3.* If a corporation fails to comply with any requirement pursuant to subsection ~~[3,]~~ *2,* the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

~~[5.]~~ *4.* The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection ~~[4]~~ *3* unless:

(a) The corporation complies with the requirements of subsection ~~[3;]~~ *2;* or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

~~[6.]~~ *5.* The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 82.206 is hereby amended to read as follows:

82.206 1. Unless otherwise provided in the articles or bylaws, the board of directors may designate one or more committees which, to the extent provided in the *bylaws or in the* resolution or resolutions ~~[or in the bylaws,]~~ *designating such committee or committees,* have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers on which the corporation desires to place a seal.

2. The committee or committees may have such name or names as may be stated in the bylaws or as may be determined from time to time by resolution adopted by the board of directors.

3. Each committee must have at least one director. Unless it is otherwise provided in the articles or bylaws, the board of directors may appoint natural persons who are not directors to serve on the committees.

4. No such committee may:

(a) Amend, alter or repeal the bylaws;

(b) Elect, appoint or remove any member of any such committee or any director ~~[or officer]~~ of the corporation;

(c) Amend or repeal the articles, adopt a plan of merger or a plan of consolidation with another corporation;

(d) Authorize the sale, lease or exchange of all of the property and assets of the corporation;

(e) Authorize the voluntary dissolution of the corporation or revoke proceedings therefor;

(f) Adopt a plan for the distribution of the assets of the corporation; or

(g) Amend, alter or repeal any resolution of the board of directors unless it provides by its terms that it may be amended, altered or repealed by a committee.

Sec. 19. NRS 82.306 is hereby amended to read as follows:

82.306 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 82.286, the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors, or 50 members, whichever is less, to order the election of directors as required by NRS 82.286.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ *the county in which the corporation's registered office is located*, and must be brought on behalf of all members desiring to be joined therein. Such notice must be given to the corporation and the members as the court may direct.

Sec. 20. NRS 82.336 is hereby amended to read as follows:

82.336 1. A corporation having members entitled to vote on the matter involved must hold a special meeting of delegates or members if:

(a) The board of directors or persons authorized to do so by the articles or bylaws demand such a meeting; or

(b) At least 5 percent of the members demand such a meeting.

➥ The demand must state the purpose for the meeting. Those making the demand on the corporation must sign, date and deliver their demand to the president, chairman of the board or the treasurer of the corporation. The corporation must then immediately give notice of a special meeting of delegates or members as set forth in subsections 2 to 7, inclusive ~~[.]~~ *, or subsection 9.*

2. Whenever under the provisions of this chapter delegates or members are required or authorized to take any action at a meeting, the notice of the meeting must be in writing and signed by the president or the chairman of the board or a vice president, or the secretary, or an assistant secretary, or by such other person or persons as the bylaws may prescribe or permit or the directors designate.

3. The notice must state the purpose or purposes for which the meeting is called and the time when, and the place, which may be within or without this State, where it is to be held.

4. A copy of the notice must be delivered personally, ~~[or must be]~~ mailed postage prepaid ~~[,]~~ *or given as provided in subsection 9* to each delegate or member, as the case may be, entitled to vote at the meeting not less than 10 nor more than 60 days before such meeting. If mailed, it must be directed to the person at his address as it appears upon the records of the corporation. Upon the mailing of any notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited

in the mail for transmission to the person. Personal delivery of the notice to any officer of a corporation or association, or to any member of a partnership, constitutes delivery of the notice to the corporation, association or partnership.

5. The articles or bylaws may require that the notice be also published in one or more newspapers.

6. Notice duly delivered or mailed to a delegate or member in accordance with the provisions of this section and the provisions, if any, of the articles or bylaws is sufficient, and in the event of the transfer of a membership after the delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

7. Any delegate or member may waive notice of any meeting by a writing signed by him, or his duly authorized attorney, either before or after the meeting.

8. Unless otherwise provided in the articles or bylaws, whenever notice is required to be given, under any provision of this chapter or the articles or bylaws of any corporation, to any member to whom notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to him during the period between those two consecutive annual meetings, have been mailed addressed to him at his address as shown on the records of the corporation and have been returned undeliverable, the giving of further notices to him is not required. Any action or meeting taken or held without notice to that person has the same force and effect as if the notice had been given. If any such person delivers to the corporation a written notice setting forth his current address, the requirement that notice be given to him is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this title, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

9. Any notice to members or delegates given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given ~~[pursuant to NRS 78.370.]~~ in the same manner that a corporation is required to give notice to its stockholders pursuant to NRS 78.370.

Sec. 21. NRS 82.471 is hereby amended to read as follows:

82.471 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of funds to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or members, creditors holding 10 percent of the outstanding indebtedness, or members, if any, having 10 percent of the voting power to elect directors, may, by petition or bill of complaint setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or to the district court in ~~[Carson City]~~ *the county in which the corporation's*

registered office is located for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition or bill, and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon the inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or members, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 22. NRS 82.486 is hereby amended to read as follows:

82.486 1. The persons described in subsections 2 and 3 may apply to the district court in the district where the corporation has its principal office or, if the principal office is not located in this State, to the district court in ~~[Carson City:]~~ *the county in which the corporation's registered office is located:*

(a) For an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by or through a receiver appointed by the court; or

(b) For such other equitable relief that is just and proper in the circumstances.

2. A member or members, if any, holding at least one-third of the voting power for the election of directors or a majority of the directors in office, may apply for the relief described in subsection 1 whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct its activities or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, misapplication, sacrifice or loss;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(j) The corporation is not about to resume its business with safety to the public;

(k) The period of corporate existence has expired and has not been lawfully extended;

(l) The corporation has solicited property and has failed to use it for the purpose solicited;

(m) The corporation has fraudulently used or solicited property; or

(n) The corporation has exceeded its powers.

3. The Attorney General may apply for the relief described in subsection 1 whenever the corporation is a corporation for public benefit and whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) The corporation has abandoned its business;

(d) The corporation has become insolvent;

(e) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(f) The corporation has solicited property and has failed to use it for the purpose solicited;

(g) The corporation has fraudulently used or solicited property; or

(h) The period of corporate existence has expired and has not been lawfully extended.

4. Any person or superior organization under which the corporation was formed, if expressly authorized to act by the articles, may apply for the relief described in subsection 1 pursuant to the grounds, if any, set forth in the articles.

Sec. 23. ~~[NRS 82.5237 is hereby amended to read as follows:~~

~~82.5237 1. Except as otherwise provided in subsections 3 and 4 ,~~ [~~and NRS 82.183,~~] ~~the Secretary of State shall reinstate a foreign nonprofit corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of NRS 82.523 to 82.5239, inclusive, and restore to the foreign nonprofit corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:~~

~~(a) Files with the Secretary of State a list as provided in NRS 82.523; and~~

~~(b) Pays to the Secretary of State:~~

~~(1) The filing fee and penalty set forth in NRS 82.523 and 82.5235 for each year or portion thereof that its right to transact business was forfeited; and~~

~~(2) A fee of $100 for reinstatement.~~

~~2. When the Secretary of State reinstates the foreign nonprofit corporation, he shall issue to the foreign nonprofit corporation a certificate of reinstatement if the foreign nonprofit corporation:~~

~~(a) Requests a certificate of reinstatement; and~~

~~(b) Pays the fees as provided in subsection 7 of NRS 78.785.~~

~~3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.~~

~~4. If the right of a foreign nonprofit corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.~~

~~5. Except as otherwise provided in NRS 82.5239, a reinstatement pursuant to this section relates back to the date on which the foreign nonprofit corporation forfeited its right to transact business under the provisions of this chapter and reinstates the foreign nonprofit corporation's right to transact business as if such right had at all times remained in full force and effect.]~~ *(Deleted by amendment.)*

Sec. 24. ~~[NRS 82.546 is hereby amended to read as follows:~~

~~82.546 1. [~~Except as otherwise provided in NRS 82.183, any]~~ *Any* ~~corporation which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 78.150 and 82.193, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or its existing charter, by filing:~~

~~(a) A certificate with the Secretary of State, which must set forth:~~

~~(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.~~

~~(2) The information required pursuant to NRS 77.310.~~

~~(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.~~

~~(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.~~

~~(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.~~

~~(b) A list of its president, secretary and treasurer and all of its directors and their mailing or street addresses, either residence or business.~~

~~2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the last-appointed surviving directors.~~

~~3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by its president or vice president and secretary or assistant secretary. The signing and filing of the certificate must be approved unanimously by the last-appointed surviving directors of the corporation and must contain a recital that unanimous consent was secured. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.~~

~~4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation named therein.~~

~~5. Except as otherwise provided in NRS 78.185, a renewal or revival pursuant to this section relates back to the date on which the corporation's charter expired or was revoked and renews or revives the corporation's charter and right to transact business as if such right had at all times remained in full force and effect.]~~ *(Deleted by amendment.)*

Sec. 25. Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 29, inclusive, of this act.

Sec. 26. *"Restricted limited-liability company" means a limited-liability company organized and existing under this chapter that elects to include the optional provisions permitted by NRS 86.161.*

Sec. 27. *1. If a limited-liability company has elected in its articles of organization to be a restricted limited-liability company pursuant to NRS 86.161, subject to the provisions of NRS 86.343, and unless otherwise provided in the articles of organization, the company shall not make any distributions to its members with respect to their member's interests until 10 years after:*

(a) The date of formation of the restricted limited-liability company as long as the original articles of organization elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the date of formation; or

(b) The effective date of the amendment to the articles of organization in which the company elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited-liability company to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the articles of organization of the restricted limited-liability company.

Sec. 27.5. 1. Every person, other than a foreign limited-liability company, who is purporting to do business in this State as a limited-liability company and who fails or neglects to form the limited-liability company in accordance with the provisions of NRS 86.151 or 89.040, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. *1. The rights authorized by NRS 86.241 may be denied to a member or manager, as the case may be, or to such person's attorney or other agent, upon the refusal of the member or manager to furnish to the limited-liability company an affidavit that the provision or examination of records is not desired for a purpose which is in the interest of a business or object other than the business of the company and that such person has not at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation or aided or abetted any person in procuring any such record for any such purpose.*

2. Any action to enforce any rights arising under NRS 86.241 must be brought in the district court for the county in which the limited-liability company has its principal place of business or if such principal office is not located in this State, the county in which the company's registered office is located. If the company refuses to permit a member to obtain or a manager to examine the records described in NRS 86.241 or does not reply to a demand within 10 business days after the demand has been made, the demanding member or manager may apply to the district court for an order to compel such action.

3. The district court has exclusive jurisdiction to determine whether or not the person seeking such records is entitled to the records sought. The district court may:

(a) Order the limited-liability company to permit the demanding member to obtain or manager to examine the records described in NRS 86.241 and to make copies or abstracts therefrom;

(b) Order the company to furnish to the demanding member or manager the records described in NRS 86.241 on the condition that the demanding member or manager first pay to the company the reasonable cost of

obtaining and furnishing such records and on such other conditions as the district court deems appropriate;

(c) In its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of records, or award such other or further relief including an award of attorney's fees and costs to the prevailing party in the dispute as the district court may deem just and proper; or

(d) Order records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon such terms and conditions as the order may prescribe.

4. It is a defense to any action for penalties or damages under this section that the person bringing such action has at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation, or has aided or abetted any person in procuring any such record for any such purpose, or that the person bringing such action desired inspection for a purpose which is in the interest of a business or object other than the business of the company.

5. This section does not impair the power or jurisdiction of any court to compel the production for examination of the records of a limited-liability company in any proper case.

Sec. 29. *1. A person is admitted as an initial member of a limited-liability company:*

(a) If the company is a limited-liability company managed by its members, upon the filing of the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; or

(b) If the company is a limited-liability company managed by a manager or managers, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company.

2. Unless otherwise provided in the articles of organization, after the admission of the initial member or members of a limited-liability company in accordance with subsection 1, a person is admitted as a member:

(a) In the case of a person who is not a transferee of a member's interest, including a person being admitted as a noneconomic member and a person acquiring a member's interest directly from the company, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, upon the consent of all the members and as of the time of such person's admission as reflected in the records of the company;

(b) In the case of a transferee of a member's interest who is a substituted member pursuant to NRS 86.351, as provided in NRS 86.351 or 86.491 and as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no

operating agreement, as of the time of such person's admission as reflected in the records of the company;

(c) In the case of a person being admitted as a member of a surviving or resulting limited-liability company pursuant to a merger, conversion or exchange approved in accordance with NRS 92A.150, as of the time set forth in and upon compliance with the operating agreement of the surviving or resulting limited-liability company or in the plan of merger, conversion or exchange, and in the event of any inconsistency, the terms of the plan of merger, conversion or exchange control; and

(d) In the case of a person being admitted as a member of a limited-liability company pursuant to a merger, conversion or exchange in which such limited-liability company is not the surviving or resulting entity, as of the time set forth in and upon compliance with the operating agreement of such limited-liability company.

3. In connection with the domestication of an undomesticated organization as a limited-liability company in this State in accordance with NRS 92A.270, a person is admitted as a member of the company as of the time set forth in and upon compliance with the articles of domestication or in the operating agreement of the resulting domestic limited-liability company or, if the articles of domestication and the operating agreement do not so provide or if the articles of domestication do not so provide and the company has no operating agreement, as of the time of such person's admission as reflected in the records of the resulting domestic limited-liability company.

4. Unless otherwise provided in the articles of organization, the operating agreement or another agreement approved or adopted by all of the members, no member has a preemptive right to acquire any unissued member's interests or other interests in a limited liability company.

Sec. 30. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.128, inclusive, *and section 26 of this act* have the meanings ascribed to them in those sections.

Sec. 31. NRS 86.061 is hereby amended to read as follows:

86.061 "Limited-liability company" or "company" means a limited-liability company organized and existing under this chapter ~~[.]~~ , *including a restricted limited-liability company.*

Sec. 32. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

(a) The name of the limited-liability company;

(b) The information required pursuant to NRS 77.310;

(c) The name and address, either residence or business, of each of the organizers signing the articles;

(d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member; ~~[and]~~

(e) If the company is to have one or more series of members and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally, a statement to that effect and a statement:

(1) Setting forth the relative rights, powers and duties of the series; or

(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement ~~[.]~~ *; and*

(f) If the company is to be a restricted limited-liability company, a statement to that effect.

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 33. NRS 86.241 is hereby amended to read as follows:

86.241 1. Each limited-liability company shall continuously maintain in this State an office, which may but need not be a place of its business in this State, at which it shall keep, unless otherwise provided by an operating agreement:

(a) A current list of the full name and last known business address of each member and manager, separately identifying the members in alphabetical order and the managers, if any, in alphabetical order;

(b) A copy of the filed articles of organization and all amendments thereto, together with signed copies of any powers of attorney pursuant to which any record has been signed; and

(c) Copies of any then effective operating agreement of the company.

2. ~~[Records kept pursuant to this section are subject to inspection and copying at the reasonable request, and at the expense, of any member during ordinary business hours, unless otherwise provided in an operating agreement.]~~ *In lieu of keeping at an office in this State the information required in paragraphs (a) and (b) of subsection 1, the limited-liability company may keep a statement with the registered agent setting out the name of the custodian of the information required in paragraphs (a) and (b) of subsection 1, and the present and complete address, including street and*

number, if any, where the information required in paragraphs (a) and (b) of subsection 1 is kept.

3. Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a) The records required to be maintained pursuant to subsection 1;

(b) True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c) Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d) True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e) Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

➥ *The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.*

4. Each manager of a limited-liability company managed by a manager or managers is entitled to examine from time to time upon reasonable demand, for a purpose reasonably related to the manager's rights, powers and duties as such, the records described in subsection 3.

5. Any demand by a member or manager under ~~[subsections]~~ subsection 3 or 4 is subject to such reasonable standards regarding at what time and location and at whose expense records are to be furnished as may be set forth in the articles of organization or in an operating agreement adopted or amended as provided in subsection 8 or, if no such standards are set forth in the articles of organization or operating agreement, the records must be provided or made available for examination, as the case may be, during ordinary business hours, at the company's office required to be maintained pursuant to subsection 1 and at the expense of the demanding member or manager.

6. Any demand by a member or manager under this section must be in writing and must state the purpose of such demand. When a demanding member seeks to obtain or a manager seeks to examine the records described in subsection 3, the demanding member or manager must first establish that:

(a) The demanding member or manager has complied with the provisions of this section respecting the form and manner of making a demand for obtaining or examining such records; and

(b) The records sought by the demanding member or manager are reasonably related to the member's interest as a member or the manager's rights, powers and duties as a manager, as the case may be.

7. In every instance where an attorney or other agent of a member or manager seeks to exercise any right arising under this section on behalf of such member or manager, the demand must be accompanied by a power of attorney signed by the member or manager authorizing the attorney or other agent to exercise such rights on his behalf.

8. The rights of a member to obtain or a manager to examine records as provided in this section may be restricted or denied entirely in the articles of organization or in an operating agreement adopted by all of the members or by the sole member or in any subsequent amendment adopted by all of the members at the time of amendment.

Sec. 34. NRS 86.246 is hereby amended to read as follows:

86.246 1. ~~[In addition to any records required to be kept pursuant to NRS 86.241, a]~~ *A* limited-liability company shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each member and manager; or~~

~~(b) A]~~ *a* statement indicating where ~~[such a list]~~ *the list required pursuant to paragraph (a) of subsection 1 of NRS 86.241* is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ *, if different than the registered agent for such company.* The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ *custodian of* the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to *paragraph (a) of* subsection 1 ~~[,]~~ *of NRS 86.241;* or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. *If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement.* Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. An operating agreement:

(a) May provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein.

(b) Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.

5. To the extent that a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, the member, manager or other person's duties may be expanded, restricted or eliminated by provisions in the operating agreement, except ~~[than]~~ that an

operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

6. Unless otherwise provided in an operating agreement, a member or manager or other person is not liable to a limited-liability company, another member or manager, or to another person that is a party to or otherwise bound by an operating agreement for breach of fiduciary duty for the member, manager or other person's good faith reliance on the provisions of the operating agreement.

7. An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties of a member, manager or other person to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

Sec. 36. NRS 86.291 is hereby amended to read as follows:

86.291 1. Except as otherwise provided in this section or *in* the articles of organization ~~[,]~~ *or operating agreement,* management of a limited-liability company is vested in its members in proportion to their contribution to its capital, as adjusted from time to time to reflect properly any additional contributions or withdrawals by the members.

2. Unless otherwise provided in the articles of organization or operating agreement, the management of a series is vested in the members associated with the series in proportion to their contribution to the capital of the series, as adjusted from time to time to reflect properly any additional contributions or withdrawals from the assets or income of the series by the members associated with the series.

3. If provision is made in the articles of organization, management of the company may be vested in a manager or managers, who may but need not be members . ~~[, in the manner prescribed by the operating agreement of the company.]~~ The manager or managers ~~[also]~~ *shall* hold the offices , ~~[and]~~ have the responsibilities ~~[accorded to them by the members and set out in the operating agreement.]~~ *and otherwise manage the company as set forth in the operating agreement of the company or, if the company has not adopted an operating agreement, then as prescribed by the members.*

Sec. 36.1. NRS 86.548 is hereby amended to read as follows:

86.548 1. ~~[A]~~ *Every* foreign limited-liability company transacting business in this State ~~[may]~~ *which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not *commence or* maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ *with the Secretary of State.*

2. The failure of a foreign limited-liability company to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act of the foreign limited-liability company, or prevent the foreign limited-liability company from defending any action, suit or proceeding in any court of this State.

3. *When the Secretary of State is advised that a foreign limited-liability company is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited-liability company has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

4. A foreign limited-liability company, by transacting business in this State without ~~[registration,]~~ *registering with the Secretary of State,* appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign limited-liability company.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.3. Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as section 36.4 and 36.6 of this act.

Sec. 36.4. 1. Every person, other than a foreign registered limited-liability partnership, who is purporting to do business in this State as a registered limited-liability partnership and who fails or neglects to comply with the provisions of NRS 87.440 is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.6. 1. Every foreign registered limited-liability partnership which is doing business in this State and which fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive:

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive.

2. The failure of a foreign registered limited-liability partnership to register in this State does not impair the validity of any contract or act of the foreign registered limited-liability partnership, or prevent the foreign registered limited-liability partnership from defending any action, suit or proceeding in any court of this State.

3. When the Secretary of State is advised that a foreign registered limited-liability partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the foreign registered limited-liability partnership's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

4. A foreign registered limited-liability partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign registered limited-liability partnership.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.7. NRS 87.550 is hereby amended to read as follows:

87.550 In addition to any other fees required by NRS 87.440 to 87.540, inclusive, *and section 36.4 of this act,* and 87.560, the Secretary of State shall charge and collect the following fees for services rendered pursuant to those sections:

1. For certifying records required by NRS 87.440 to 87.540, inclusive, *and section 36.4 of this act,* and 87.560, $30 per certification.

2. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has not filed a certificate of amendment, $50.

3. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has filed a certificate of amendment, $50.

4. For signing, certifying or filing any certificate or record not required by NRS 87.440 to 87.540, inclusive, *and section 36.4 of this act,* and 87.560, $50.

5. For any copies provided by the Office of the Secretary of State, $2 per page.

6. For examining and provisionally approving any record before the record is presented for filing, $125.

Sec. 36.9. *NRS 87.560 is hereby amended to read as follows:*

87.560 1. To the extent permitted by the law of that jurisdiction:

(a) A partnership, including a registered limited-liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(b) The internal affairs of a partnership, including a registered limited-liability partnership, formed and existing under this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, are governed by the law of this State.

2. Subject to any statutes for the regulation and control of specific types of business, a registered limited-liability partnership, formed and existing under the law of another jurisdiction, may do business in this State if it first registers with the Secretary of State pursuant to the provisions of NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive ~~[.]~~ *, and section 36.6 of this act.*

3. The name of a partnership that is registered as a limited-liability partnership in another jurisdiction and doing business in this State must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviations "L.L.P." or "LLP," or such other words or abbreviations as may be required or authorized by the law of the other jurisdiction, as the last words or letters of the name.

Sec. 37. Chapter 87A of NRS is hereby amended by adding thereto the provisions set forth as sections 38 ~~[and 39]~~ *to 39.7, inclusive,* of this act.

Sec. 38. *"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 87A.235.*

Sec. 39. *1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 87A.235, subject to the provisions of NRS 87A.425, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners until 10 years after:*

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the

extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 39.3. *1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who fails or neglects to form a limited partnership in accordance with the provisions of NRS 87A.235 or 88.350 is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.*

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.5. *1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who fails or neglects to comply with the provisions of NRS 87A.630 or 88.606, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.*

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.7. *1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

2. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

3. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

4. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

5. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 40. NRS 87A.010 is hereby amended to read as follows:

87A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87A.015 to 87A.140, inclusive, *and section 38 of this act* have the meanings ascribed to them in those sections.

Sec. 41. NRS 87A.060 is hereby amended to read as follows:

87A.060 "Limited partnership," except in the phrases "foreign limited partnership," "foreign limited-liability limited partnership" and "foreign registered limited-liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons. The term includes a registered limited-liability limited partnership ~~[.]~~ *and a restricted limited partnership.*

Sec. 41.5. NRS 87A.100 is hereby amended to read as follows:

87A.100 "Registered limited-liability limited partnership" means a limited partnership:

1. Formed pursuant to an agreement governed by this chapter; and

2. Registered pursuant to and complying with NRS 87A.630 to 87A.655, inclusive ~~[.]~~ *, and sections 39.5 and 39.7 of this act.*

Sec. 42. NRS 87A.195 is hereby amended to read as follows:

87A.195 A limited partnership shall maintain at its designated office the following information:

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the 3 most recent years.

7. A copy of the three most recent annual lists filed with the Secretary of State pursuant to NRS 87A.290.

8. A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating:

(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

➥ *In lieu of keeping at the designated office the information required in subsections 1, 4 and 6 to 9, inclusive, the limited partnership may keep a statement with the registered agent setting out the name of the custodian of the information required in subsections 1, 4 and 6 to 9, inclusive, and the present and complete post office address, including street and number, if*

any, where the information required in subsections 1, 4 and 6 to 9, inclusive, is kept.

Sec. 43. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[.~~

~~(a) A current list of each general partner; or~~

~~(b) A~~] *a* statement indicating where ~~[such a list]~~ *the list required pursuant to subsection 1 of NRS 87A.195* is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ *, if different than the registered agent for such limited partnership.* The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ *custodian of* the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1 ~~[.]~~ *of NRS 87A.195;* or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 87A.235 is hereby amended to read as follows:

87A.235 1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and the street and mailing address of each general partner; ~~[and]~~

(d) Any additional information required by chapter 92A of NRS ~~[.]~~ *; and*

(e) If the limited partnership is to be a restricted limited partnership, a statement to that effect.

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of NRS 87A.190 in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on the later of the filing of the certificate of limited partnership or a date specified in the certificate of limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 45. NRS 87A.535 is hereby amended to read as follows:

87A.535 Subject to the Constitution of this State:

1. The laws of the state or jurisdiction under which a foreign limited partnership is organized govern ~~[:~~

~~(a) Relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership; and~~

~~(b) The liability of partners as partners for an obligation of the foreign limited partnership; and]~~ *its organization, internal affairs and the liability of its limited partners.*

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 46. NRS 87A.550 is hereby amended to read as follows:

87A.550 Except as otherwise provided in NRS 87A.655, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ *contains* the words "limited partnership" *or the abbreviations "L.P." or "LP"* and that could be registered by a domestic limited partnership.

Sec. 47. NRS 87A.575 is hereby amended to read as follows:

87A.575 1. Each list required to be filed under the provisions of NRS 87A.560 to 87A.600, inclusive, must, after the name of each ~~[managing]~~ *general* partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ *general* partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 87A.560 to 87A.600, inclusive, relating to failure to file

the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 48. NRS 87A.595 is hereby amended to read as follows:

87A.595 1. Except as otherwise provided in subsections 3 and 4 and NRS 87A.580, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87A.560;

(2) The statement required by NRS 87A.565, if applicable; and

(3) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87A.560 and 87A.585 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 87A.565, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87A.315.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. ~~[If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.]~~ *Except as otherwise provided in NRS 87A.600, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 48.5. NRS 87A.610 is hereby amended to read as follows:

87A.610 1. ~~[A]~~ *Every* foreign limited partnership transacting business in this State ~~[may]~~ *which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not *commence or* maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ *with the Secretary of State.*

2. The failure of a foreign limited partnership to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

3. *When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover a fine pursuant to this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

4. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ *5.* A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ *registering with the Secretary of State,* appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49. Chapter 88 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 49.2 to 49.8, inclusive, of this act.*

Sec. 49.2. 1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 88.350, subject to the provisions of NRS 88.520, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners with respect to their partnership interests until 10 years after:

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 49.4. 1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who fails or neglects to form a limited partnership in accordance with the provisions of NRS 87A.235 or 88.350 is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.6. 1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who fails or neglects to comply with the provisions of NRS 87A.630 or 88.606, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.8. 1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575:

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

2. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

3. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

4. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

5. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88.315 is hereby amended to read as follows:

88.315 As used in this chapter, unless the context otherwise requires:

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners ~~[.]~~ , *including a restricted limited partnership.*

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

12. "Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

13. "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, *and section 49.4 of this act,* 88.606, 88.6065 and 88.607.

14. "Registered agent" has the meaning ascribed to it in NRS 77.230.

15. "Registered office" means the office maintained at the street address of the registered agent.

16. *"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.*

17. "Sign" means to affix a signature to a record.

~~[17.]~~ *18.* "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~[18.]~~ *19.* "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

~~[19.]~~ *20.* "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.

Sec. 51. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each general partner; or~~

~~(b) A]~~ *a* statement indicating where ~~[such a list]~~ *the list required pursuant to paragraph (a) of subsection 1 of NRS 88.335* is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ *, if different than the registered agent for such limited partnership.* The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ *custodian of* the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to *paragraph (a) of* subsection 1 ~~[;]~~ *of NRS 88.335;* or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and business address of each organizer executing the certificate;

(d) The name and business address of each initial general partner;

(e) The latest date upon which the limited partnership is to dissolve; ~~[and]~~

(f) *If the limited partnership is to be a restricted limited partnership, a statement to that effect; and*

(g) Any other matters the organizers determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the Office of the Secretary of State or at any later time specified in the certificate of limited partnership if there has been substantial compliance with the requirements of this section.

Sec. 52.5. NRS 88.375 is hereby amended to read as follows:

88.375 1. Each certificate required by NRS 88.350 to 88.390, inclusive, *and section 49.4 of this act,* to be filed in the Office of the Secretary of State must be signed in the following manner:

(a) An original certificate of limited partnership must be signed by all organizers;

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation must be signed by all general partners.

2. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission.

3. The signing of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 53. NRS 88.570 is hereby amended to read as follows:

88.570 Subject to the constitution of this State:

1. The laws of the state *or jurisdiction* under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 54. NRS 88.575 is hereby amended to read as follows:

88.575 Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner. The application for registration must set forth:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

2. The state ~~[and date of its formation;]~~ *or jurisdiction under whose law the foreign limited partnership is organized and the date of its organization.*

3. The information required pursuant to NRS 77.310;

4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the registered agent's authority has been revoked or if the registered agent cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

6. The name and business address of each general partner; and

7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 55. NRS 88.5925 is hereby amended to read as follows:

88.5925 1. Each list required to be filed under the provisions of NRS 88.591 to 88.5945, inclusive, must, after the name of each ~~[managing]~~ *general* partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ *general* partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 88.591 to 88.5945, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 55.5. NRS 88.600 is hereby amended to read as follows:

88.600 1. ~~[A]~~ *Every* foreign limited partnership transacting business in this State ~~[may]~~ *which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not *commence or* maintain any action, suit or proceeding in any court of this State until it has registered in this State.

2. The failure of a foreign limited partnership to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act

of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

3. *When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

4. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ *5.* A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ *registering with the Secretary of State*, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56. NRS 88.608 is hereby amended to read as follows:

88.608 1. Unless otherwise provided by the ~~[articles of organization]~~ *certificate of limited partnership* or partnership agreement, a partner of a registered limited-liability limited partnership is not personally liable for a debt or liability of the registered limited-liability limited partnership unless the trier of fact determines that adherence to the fiction of a separate entity would sanction fraud or promote a manifest injustice.

2. For purposes of this section, the failure of a registered limited-liability limited partnership to observe the formalities or requirements relating to the management of the registered limited-liability limited partnership, in and of itself, is not sufficient to establish grounds for imposing personal liability on a partner for a debt or liability of the registered limited-liability limited partnership.

Sec. 56.2. Chapter 88A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a foreign business trust, who is purporting to do business in this State as a business trust and who fails or neglects to comply with the provisions of NRS 88A.210 is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign business trust, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine

described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.4. NRS 88A.750 is hereby amended to read as follows:

88A.750 1. ~~[A]~~ *Every* foreign business trust transacting business in this State ~~[may]~~ *which fails or neglects to comply with the provisions of NRS 88A.710:*

(a) Is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction; and

(b) May not *commence or* maintain any action, suit or proceeding in any court of this State until it has registered in this State.

2. The failure of a foreign business trust to register ~~[in this State]~~ *with the Secretary of State* does not impair the validity of any contract or act of the foreign business trust or prevent the foreign business trust from defending any action, suit or proceeding in any court of this State.

3. *When the Secretary of State is advised that a foreign business trust is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign business trust has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*

4. A foreign business trust, by transacting business in this State without ~~[registration,]~~ *registering with the Secretary of State,* appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.6. Chapter 89 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person who is purporting to do business in this State as a professional association and who fails or neglects to comply with the provisions of NRS 89.210 is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the

proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.8. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, *and section 56.6 of this act,* the fees set forth in NRS 78.755 to 78.785, inclusive, apply to professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 57. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional entity in the manner provided for organizing a corporation pursuant to chapter 78 of NRS or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the professional entity is organized. The articles must contain the following additional information:

(a) The profession to be practiced by means of the professional entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in ~~[paragraph (d) of this subsection,]~~ *paragraphs (d) and (e),* a certificate from the regulating board of the profession to be practiced showing that each of the directors, stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

(e) For a professional entity formed pursuant to subsection 5 of NRS 89.070, a certificate from the State Bar of Nevada showing at least one stockholder or member who is a natural person is admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada.

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders.

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations

"Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 58. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No professional entity may issue any of its owner's interest to anyone other than a natural person who is licensed to render the same specific professional services as those for which the professional entity was formed.

(b) No owner may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his owner's interest, unless the other person is licensed to render the same specific professional services as those for which the professional entity was formed.

(c) No owner's interest may be sold or transferred except to a natural person who is eligible to be an owner or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal representative or estate of the owner may continue to own the owner's interest for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

➥ The articles, bylaws or operating agreement of the professional entity may provide specifically for additional restrictions on the transfer of an owner's interest and may provide for the redemption or purchase of the owner's interest by the professional entity, its owners or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. An owner may transfer his owner's interest in the professional entity or any other interest in the assets of the professional entity to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the professional entity was formed does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the professional entity was formed may own a beneficial interest in any of the assets, including an owner's interest, held for his account by an eligible individual account plan sponsored by the professional entity for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. § 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the professional entity was formed is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the professional entity was formed; or

(b) The trustee is not permitted to participate in any decisions concerning the rendering of professional services in his capacity as trustee.

➥ A trustee who is individually an owner may participate in his individual capacity as an owner, manager, director or officer in any decision.

3. Except as otherwise provided in subsection 4, a professional entity in which all the owners who are natural persons are licensed to render the same specific professional service may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state, only if all the owners who are natural persons of the professional entity whose stock is acquired are licensed in that professional entity's state of formation to render the same specific professional service as the owners who are natural persons of the professional entity that acquires the owner's interest.

4. A professional entity practicing pursuant to NRS 623.349 in which all the owners are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state if control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. *An attorney may form a legal services professional entity that is organized or incorporated in the State of Nevada with one or more natural persons, each of whom is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States, and such legal services entity may issue an owner's interest to a natural person who is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States provided that at least one attorney admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada owns an owner's interest in the professional entity.*

6. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not an owner and who has relied on the effectiveness of the action.

Sec. 59. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

"Senior executive" means the chief executive officer, chief operating officer, chief financial officer or anyone in charge of a principal business unit or function of a domestic corporation.

Sec. 60. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to 92A.097, inclusive, *and section 59 of this act* have the meanings ascribed to them in those sections.

Sec. 61. NRS 92A.180 is hereby amended to read as follows:

92A.180 1. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge the subsidiary into itself without approval of the owners of the owner's interests of the parent domestic corporation, *parent* domestic limited-liability company or *parent* domestic limited partnership or the owners of the owner's interests of ~~[a]~~ *the* subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

2. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger, or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge with and into the subsidiary without approval of the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

3. The board of directors of a parent corporation, the managers of a parent limited-liability company with managers unless otherwise provided in the operating agreement, all members of a parent limited-liability company without managers unless otherwise provided in the operating agreement, or all general partners of a parent limited partnership shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the owner's interests of the disappearing entity into the owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property in whole or in part.

4. The parent shall mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

5. Articles of merger under this section may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

6. The articles of incorporation of a domestic corporation, the articles of organization of a domestic limited-liability company, the certificate of limited partnership of a domestic limited partnership or the certificate of trust of a domestic business trust may forbid that entity from entering into a merger pursuant to this section.

Sec. 62. ~~[NRS 92A.205 is hereby amended to read as follows:~~

~~92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:~~

~~(a) Articles of conversion setting forth:~~

~~(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and~~

~~(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.~~

~~(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, 82, 86, 87A, 88, 88A or 89 of NRS.~~

~~(c) The information required pursuant to NRS 77.310.~~

~~2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:~~

~~(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;~~

~~(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and~~

~~(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.~~

~~3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 87A.215 or paragraph (a) of subsection 1 of NRS 88.330.~~

~~4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.~~

~~5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.]~~ *(Deleted by amendment.)*

Sec. 63. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; and

(3) The information required pursuant to NRS 77.310.

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law,

➥ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. As used in this section, "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, *limited-liability company*, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of

Columbia or another state, territory, possession, commonwealth or dependency of the United States.

Sec. 64. NRS 92A.320 is hereby amended to read as follows:

92A.320 "Fair value," with respect to a dissenter's shares, means the value of the shares ~~[immediately]~~ *determined:*

1. Immediately before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable ~~[.]~~ *;*

2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

3. Without discounting for lack of marketability or minority status.

Sec. 65. NRS 92A.340 is hereby amended to read as follows:

92A.340 Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the ~~[average rate currently paid by the entity on its principal bank loans or, if it has no bank loans, at a rate that is fair and equitable under all of the circumstances.]~~ *rate of interest most recently established pursuant to NRS 99.040.*

Sec. 66. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a ~~[conversion or]~~ plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the ~~[conversion or]~~ merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the ~~[conversion or]~~ plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) *Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.*

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

~~[(c)]~~ *(d)* Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

~~[(d)]~~ *(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.*

(f) Any corporate action not described in ~~[paragraph (a), (b) or (c)]~~ *this subsection* that will result in the stockholder receiving money or scrip instead of fractional shares except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.

Sec. 67. NRS 92A.390 is hereby amended to read as follows:

92A.390 1. There is no right of dissent with respect to a plan of merger, *conversion* or exchange in favor of stockholders of any class or series which ~~[, at the]~~ *is:*

(a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended;

(b) Traded in an organized market and has at least 2,000 stockholders and a market value of at least $20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or

(c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and which may be redeemed at the option of the holder at net asset value,

➥ *unless the articles of incorporation of the corporation issuing the class or series provide otherwise.*

2. The applicability of subsection 1 must be determined as of:

(a) The record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting ~~[at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:~~

~~(a) The articles of incorporation of the corporation issuing the shares provide otherwise;]~~ *of stockholders to act upon the corporate action requiring dissenter's rights;* or

(b) ~~[The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:~~

~~(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:~~

~~(I) The surviving or acquiring entity; or~~

~~(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record; or~~

~~(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).~~

~~2.~~] *The day before the effective date of such corporate action if there is no meeting of stockholders.*

3. Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

5. There is no right of dissent for any holders of stock ~~[or]~~ of the parent domestic corporation if the plan of merger does not require action of the stockholders of the parent domestic corporation under NRS 92A.180.

Sec. 68. NRS 92A.400 is hereby amended to read as follows:

92A.400 1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares *of the class or series* beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

Sec. 69. NRS 92A.410 is hereby amended to read as follows:

92A.410 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are , *are not* or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive . ~~[, and be accompanied by a copy of those sections.]~~ *If the domestic corporation concludes that*

dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights.

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

Sec. 70. NRS 92A.420 is hereby amended to read as follows:

92A.420 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights ~~[:]~~ *with respect to any class or series of shares:*

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Must not vote ~~[his shares]~~ *, or cause or permit to be voted, any of his shares of such class or series* in favor of the proposed action.

2. If a proposed corporate action creating dissenters' rights is taken by written consent of the stockholders, a stockholder who wishes to assert dissenters' rights *with respect to any class or series of shares* must not consent to or approve the proposed corporate action ~~[.]~~ *with respect to such class or series.*

3. A stockholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

Sec. 71. NRS 92A.430 is hereby amended to read as follows:

92A.430 1. The subject corporation shall deliver a written dissenter's notice to all stockholders entitled to assert dissenters' rights.

2. The dissenter's notice must be sent no later than 10 days after the ~~[effectuation]~~ *effective date* of the corporate action ~~[,]~~ *specified in NRS 92A.380,* and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered ~~[;]~~ and *state that the stockholder shall be deemed*

to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 72. NRS 92A.440 is hereby amended to read as follows:

92A.440 1. A stockholder ~~[to whom]~~ *who receives* a dissenter's notice ~~[is sent]~~ *pursuant to NRS 92A.430 and who wishes to exercise dissenter's rights* must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. ~~[The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~ *If a stockholder fails to make the certification required by paragraph (b) of subsection 1, the subject corporation may elect to treat the stockholder's shares as after-acquired shares under NRS 92A.470.*

3. *Once a stockholder deposits that stockholder's certificates or, in the case of uncertified shares makes demand for payment, that stockholder loses all rights as a stockholder, unless the stockholder withdraws pursuant to subsection 4.*

4. A stockholder who has complied with subsection 1 may nevertheless decline to exercise dissenter's rights and withdraw from the appraisal process by so notifying the subject corporation in writing by the date set forth in the dissenter's notice pursuant to NRS 92A.430. A stockholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the subject corporation's written consent.

5. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

Sec. 73. NRS 92A.450 is hereby amended to read as follows:

92A.450 ~~[1.]~~ The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

~~[2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~

Sec. 74. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall

pay *in cash to* each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the *subject* corporation's principal office is located;

(b) If the *subject* corporation's principal office is not located in this State, in ~~[Carson City; or]~~ *the county in which the corporation's registered office is located; or*

(c) At the election of any dissenter residing or having its principal *or registered* office in this State, of the county where the dissenter resides or has its principal *or registered* office.

➥ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year *or, where such financial statements are not reasonably available, then such reasonably equivalent financial information* and the latest available ~~[interim]~~ *quarterly* financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; *and*

(c) ~~[An explanation of how the interest was calculated;~~

~~(d)]~~ A statement of the dissenter's rights to demand payment under NRS 92A.480 ~~[;]~~ and *that if any such stockholder does not do so within the period specified, such stockholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.*

~~[(e) A copy of NRS 92A.300 to 92A.500, inclusive.]~~

Sec. 75. NRS 92A.470 is hereby amended to read as follows:

92A.470 1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the *first* date of ~~[the first]~~ *any* announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, *within 30 days* after ~~[taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The]~~ *receipt of a demand for payment, the* subject corporation shall ~~[send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenters' right to demand payment pursuant to NRS 92A.480.]~~ *notify the dissenters described in subsection 1:*

(a) Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;

(b) Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;

(c) That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;

(d) That those stockholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and

(e) That those stockholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.

3. Within 10 days after receiving the stockholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder who agreed to accept the subject corporation's offer in full satisfaction of the stockholder's demand.

4. Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder described in paragraph (e) of subsection 2.

Sec. 76. NRS 92A.480 is hereby amended to read as follows:

92A.480 1. A dissenter *paid pursuant to NRS 92A.460 who is dissatisfied with the amount of the payment* may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460 . ~~[, or]~~ *A dissenter offered payment pursuant to NRS 92A.470 who is dissatisfied with the offer may* reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due . ~~[, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.]~~

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand *to be paid the dissenter's stated estimate of fair value plus interest under subsection 1* in writing within 30 days after *receiving* the subject ~~[corporation]~~ *corporation's payment or offer of payment under NRS 92A.460 or 92A.470 and is entitled only to the payment* made or offered . ~~[payment for his shares.]~~

Sec. 77. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose

demand remains unsettled the amount demanded ~~[.]~~ *by each dissenter pursuant to NRS 92A.480 plus interest.*

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located ~~[.]~~ *in this State.* If the principal office of the subject corporation is not located in the State, it shall commence the proceeding in the county where the principal office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located. If the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired is not located in this State, the subject corporation shall commence the proceeding in the district court in ~~[Carson City.]~~ *the county in which the corporation's registered office is located.*

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 78. NRS 92A.500 is hereby amended to read as follows:

92A.500 1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and

expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. *To the extent the subject corporation fails to make a required payment pursuant to NRS 92A.460, 92A.470 or 92A.480, the dissenter may bring a cause of action directly for the amount owed and, to the extent the dissenter prevails, is entitled to recover all expenses of the suit.*

6. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

Sec. 79. NRS 104.9620 is hereby amended to read as follows:

104.9620 1. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection 3;

(b) The secured party does not receive, within the time set forth in subsection ~~[5,]~~ *4*, a notification of objection to the proposal authenticated by:

(1) A person to which the secured party was required to send a proposal under NRS 104.9621; or

(2) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection 5 does not require the secured party to dispose of the collateral.

2. A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection 1 are met.

3. For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(1) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

4. To be effective under paragraph (b) of subsection 1, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to NRS 104.9621, within 20 days after notification was sent to him; and

(b) In other cases:

(1) Within 20 days after the last notification was sent pursuant to NRS 104.9621; or

(2) If a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to NRS 104.9610 within the time specified in subsection 6 if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. To comply with subsection 5, the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

7. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 80. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His full name;

(2) The street address of his residence or business; and

(3) If the mailing address is different from the street address, the mailing address of his residence or business;

(b) An artificial person *:* ~~[required to make annual filings with the Secretary of State to retain its good standing:]~~

(1) Its name *;* ~~[as it appears in the records of the Secretary of State;]~~ and

(2) Its mailing address;

(c) A general partnership:

(1) The full name of each partner who is a natural person;

(2) The street address of the residence or business of each partner who is a natural person;

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and

(4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or

(d) A trust:

(1) The full name of each trustee of the trust;

(2) The street address of the residence or business of each trustee of the trust; and

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.

2. The certificate must be:

(a) Signed:

(1) In the case of a natural person, by him;

(2) In the case of an artificial person ~~[required to make annual filings with the Secretary of State to retain its good standing, by a person required to sign the annual filing;]~~ *, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;*

(3) In the case of a general partnership, by each of the partners who is a natural person ~~[,]~~ and , if one or more of the partners is an artificial person described in subparagraph (2), by ~~[an officer of the corporation or a person required to sign the annual filing;]~~ *the person described in subparagraph (2);* or

(4) In the case of a trust, by each of the trustees; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. No county clerk may refuse to ~~[file the certificate]~~ accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons ~~[conducting the business]~~ have not qualified to do business in this State under title 7 of NRS.

4. As used in this section:

(a) "Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory,

possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) "Foreign artificial person" means an artificial person that is not organized under the laws of this State.

(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 81. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business of making loans; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any books, accounts, papers and records used therein, must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, high-interest loan or title loan is presumed to be engaged in the business of making loans.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 82. NRS 675.380 is hereby amended to read as follows:

675.380 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business described in NRS 675.060 or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business described in NRS 675.060; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any book, accounts, papers and records used therein must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make loan transactions is presumed to be engaged in the business described in NRS 675.060.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 83. ~~[NRS 82.183 is hereby repealed.]~~ *(Deleted by amendment.)*

~~[~~

~~TEXT OF REPEALED SECTION~~

~~82.183 List or statement to be maintained at registered office or principal place of business; requirement to assist in criminal investigation; failure to comply; regulations.~~

~~*1. A corporation shall maintain at its registered office or principal place of business in this State:*~~

~~*(a) A current list of its owners of record; or*~~

~~*(b) A statement indicating where such a list is maintained.*~~

~~*2. The corporation shall:*~~

~~*(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information*~~

~~*required pursuant to this paragraph shall be kept confidential by the Secretary of State.*~~

~~*(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.*~~

~~*3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:*~~

~~*(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or*~~

~~*(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.*~~

~~*4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.*~~

~~*5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:*~~

~~*(a) The corporation complies with the requirements of subsection 3; or*~~

~~*(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.*~~

~~*6. The Secretary of State may adopt regulations to administer the provisions of this section.*~~]

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Lee.

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

SENATOR CARE:

The amendment authorizes the Secretary of State to pursue action through the Office of the Attorney General or district attorney against entities that are doing business in Nevada without being properly registered and increases from $500 to $5,000 the fine that may be imposed against those entities.

It allows the Attorney General's Office or district attorney to recover certain costs if they prevail in the proceeding and provides for a fine of $5,000 against a person who does business in this State without forming a business entity consistent with the provisions of Nevada law.

SENATOR LEE:

What is a foreign, artificial person? This is contained in section 80, page 57.

SENATOR CARE:

If we are looking at the same language, it would be in section 80, subsection 4, paragraph (a), the definition: "An artificial person means an organization organized under the law of the United States, any foreign country or a state, province, territory, possession, common wealth or dependency of the United States or any foreign country and as to which the government state, province, territory, possession, common wealth or dependency must maintain a record showing the organization to have been organized." That is an artificial person as opposed to a natural person.

SENATOR LEE:
I will study this myself.

SENATOR CARE:
We usually say that a corporation is not a natural person. There is a great deal of case law that addresses that.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 358.

Bill read second time.

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

Amendment No. 387.

"SUMMARY—Revises provisions related to energy. (BDR 58-1146)"

"AN ACT relating to energy; revising provisions related to energy and state and residential property; revising provisions related to ~~[the issuance of portfolio energy credits,]~~ public utility rates *;* ~~[and net metering;]~~ revising provisions related to capacity and incentives in certain renewable energy programs; ~~[amending provisions related to local improvement districts and renewable energy;]~~ *authorizing local governing bodies to establish districts to finance loans for the construction and installation of certain renewable energy installations and energy efficiency improvements on residential property; making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~[1]~~ *1.5* of this bill requires a portion of any federal stimulus money to be used for the state energy reduction plan for state buildings. (NRS 701.215) This section also requires certain biannual reports regarding the plan.

Sections 2, 3, 5, 6, 8, 9 and 20 of this bill revise provisions related to capacity and incentives in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.200, 701B.260, 701B.590, 701B.620, 701B.840, 701B.850)

~~[Sections 4, 7 and 10 of this bill revise provisions related to the issuance of portfolio energy credits. (NRS 701B.290, 701B.640, 701B.870)]~~

Section 11 of this bill revises provisions governing the allocation of certain money for a program to improve energy conservation and energy efficiency in certain residential properties. (NRS 702.275)

Section 12 of this bill amends provisions related to rates of public utilities. (NRS 704.110)

~~[Section 13 of this bill amends provisions related to the amount of net metering offered by public utilities. (NRS 704.773)~~

~~Sections 14-18 of this bill amend provisions related to local improvement districts in order to allow renewable energy projects. (NRS 271.030, 271.265)~~

Section 1 of this bill requires the Director of the Office of Energy to adopt regulations establishing a list of renewable energy installations and energy efficiency improvements that are suitable for residential property. Section 16.5 of this bill authorizes the governing body of a county, city or town to establish a district to finance loans to owners of residential property within the district to assist the owners in the construction and installation of renewable energy installations and energy efficiency improvements that are determined to be suitable by the Director.

Section 19 of this bill amends provisions related to tracking the use of energy in buildings owned by the State or occupied by a state agency. (NRS 331.095)

Section 20.5 of this bill appropriates $25,000 to the Interim Finance Committee for allocation to the Office of Energy to hire a qualified, independent consultant to act as a liaison between the Office of Energy, the Public Utilities Commission of Nevada and providers of electric service in this State with regard to the implementation of the system of portfolio energy credits.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall adopt regulations establishing a list of the types of renewable energy installations and energy efficiency improvements which the Director determines are suitable for residential property for the purposes of section 16.5 of this act.

2. As used in this section:

(a) "Energy efficiency improvement" has the meaning ascribed to it in section 16.5 of this act.

(b) "Renewable energy installation" has the meaning ascribed to it in section 16.5 of this act.

~~[Section 1.]~~ *Sec. 1.5.* NRS 701.215 is hereby amended to read as follows:

701.215 *1.* The Director shall prepare a state energy reduction plan which requires state agencies, departments and other entities in the Executive Branch to reduce grid-based energy purchases for state-owned buildings by 20 percent by 2015.

2. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the Director to fulfill the requirements of subsection 1.

3. The Director:

(a) Shall use any amount of money provided pursuant to subsection 2 to fulfill the requirements of subsection 1;

(b) May fulfill the requirements of subsection 1 by contracting with one or more qualified independent consultants; and

(c) Shall biannually file reports with the Legislative Commission that:

(1) Indicate the general progress of energy reduction in state buildings; and

(2) Identify any state agency that fails to cooperate with the Director in the design or implementation of the plan prepared pursuant to subsection 1.

Sec. 2. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that establish:

1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives ~~[;]~~ *, except that the level or amount of an incentive available in a particular program year must be not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (c) of subsection 2 of NRS 701B.260;*

2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

Sec. 3. NRS 701B.260 is hereby amended to read as follows:

701B.260 1. Except as otherwise provided in this section, the Commission may approve, for a program year, solar energy systems:

(a) Totaling 2,000 kilowatts of capacity for school property;

(b) Totaling 760 kilowatts of capacity for public and other property; and

(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications to the Task Force from applicants who want to participate in that category; ~~[or]~~

(b) Reallocate any of the unused capacity in that category to any of the other categories ~~[,]~~ *; or*

(c) Reallocate any of the unused capacity in that category to future program years within the same category.

~~[➥ but in no case may the sum of the allocated total capacities of all the categories be greater than 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.]~~

3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.

4. After reviewing the master application submitted by a utility pursuant to NRS 701B.250 and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Task Force shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

5. Not later than 30 days after the date on which the Task Force selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Task Force on behalf of the applicant shall provide written notice of the selection to the applicant.

6. After the Task Force selects an applicant to be on the list of participants, the utility which submitted the application to the Task Force on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of NRS 701B.250, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 4. ~~[NRS 701B.290 is hereby amended to read as follows:~~

~~701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.~~

~~2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.~~

~~3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned [to and become the property of the utility administering the Program.] *as follows:*~~

~~*(a) The credits must be divided between the participant and the utility based upon the relative contribution that each has made to the total cost of the system, including, without limitation, the cost of installation of the system;*~~

~~*(b) The utility's relative contribution must include the value of any rebates offered to the participant; and*~~

~~*(c) Relative contributions must not be calculated until the utility has recovered reasonable costs related to the administration of the plan, as determined by the Commission.]~~ *(Deleted by amendment.)*

Sec. 5. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives ~~[.]~~ *, except that the level or amount of an incentive available in a particular program year must be not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (c) of subsection 3 of NRS 701B.620.*

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 6. NRS 701B.620 is hereby amended to read as follows:

701B.620 1. Based on the applications submitted by each utility for a program year, the Task Force shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Task Force selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Task Force on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Task Force may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; ~~[or]~~

(b) Reallocate any of the unused capacity in that category to any of the other categories ~~[.]~~ *; or*

(c) Reallocate any of the unused capacity in that category to future program years within the same category.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 7. ~~[NRS 701B.640 is hereby amended to read as follows:~~

~~701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.~~

~~2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned [to and become the property of the utility administering the Program.]~~ *as follows:*

~~(a) The credits must be divided between the participant and the utility based upon the relative contribution that each has made to the total cost of~~

~~*the system, including, without limitation, the cost of installation of the system;*~~

~~*(b) The utility's relative contribution must include the value of any rebates offered to the participant; and*~~

~~*(c) Relative contributions must not be calculated until the utility has recovered reasonable costs related to the administration of the plan, as determined by the Commission.]~~ *(Deleted by amendment.)*

Sec. 8. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program ~~[.]~~ *, except that the level or amount of an incentive available in a particular program year must be not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to subsection 5 of NRS 701B.850.*

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

(a) An advertising plan;

(b) A detailed budget;

(c) A schedule;

(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;

(e) An inspection and verification process;

(f) Proposed training and educational activities; and

(g) Any other information required by the Commission.

Sec. 9. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the Task Force a recommendation of which applications received should be accepted into the program. The Task Force shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of NRS 701B.820.

4. The Task Force may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;

(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and

(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

5. If the capacity allocated for a program year is not fully subscribed by participants, the Task Force may reallocate any of the unused capacity to future program years.

Sec. 10. ~~[NRS 701B.870 is hereby amended to read as follows:~~

~~701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt hour production of the waterpower energy system of the participant.~~

~~2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned [to and become the property of the utility administering the Program.]~~ ~~*as follows:*~~

~~*(a) The credits must be divided between the participant and the utility based upon the relative contribution that each has made to the total cost of the system, including, without limitation, the cost of installation of the system;*~~

~~*(b) The utility's relative contribution must include the value of any rebates offered to the participant; and*~~

~~*(c) Relative contributions must not be calculated until the utility has recovered reasonable costs related to the administration of the plan, as determined by the Commission.]~~ *(Deleted by amendment.)*

Sec. 11. NRS 702.275 is hereby amended to read as follows:

702.275 1. ~~[At the beginning of]~~ ~~[a]~~ *Before the end of each* fiscal year, *the Division of Welfare and Supportive Services shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee when the Legislature is not in session, which specifies the amount of all money in the Fund which was allocated to the Division of Welfare and Supportive Services during all preceding fiscal years pursuant to NRS 702.260 and which remains unspent and unencumbered.*

2. Based upon the report submitted pursuant to subsection 1 and any other information available, the Senate Standing Committee on Finance or the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee when the Legislature is not in session, may require the Division of Welfare and Supportive Services to distribute not more than 30 percent of *all* the money in the Fund which was allocated to the Division of Welfare and Supportive Services during ~~[the]~~ *all* preceding fiscal ~~[year]~~ *years* pursuant to

NRS 702.260 and which remains unspent and unencumbered ~~[must be distributed]~~ to the Housing Division for ~~[a program of improving energy conservation and energy efficiency in residential property.]~~ *the programs authorized by NRS 702.270.* The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.

~~[2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in NRS 701.250 with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.~~

~~3. To be eligible to receive assistance from the Housing Division pursuant to this section:~~

~~(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and~~

~~(b) The residential property must not meet the standards for energy consumption established pursuant to NRS 701.250.~~

~~4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.~~

~~5. In carrying out the provisions of this section, the Housing Division shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;~~

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

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

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the program conducted pursuant to this section;~~

~~(f) Develop a process for making changes to the program; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.]~~

Sec. 12. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the

first Monday in December 2007, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2008, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $500,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $500,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission.

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts,

projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred

energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

12. *In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may ~~[:]~~ , after a hearing:*

(a) ~~[Approve]~~ Upon the request of the utility, approve a new rate but delay the ~~[collection]~~ implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under ~~[any]~~ conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) ~~[Establish a separate rate for eligible households that qualify for assistance pursuant to NRS 702.260, but such a separate rate must take into account any assistance received pursuant to NRS 702.260.]~~ Authorize a utility to implement a reduced rate for low-income residential customers.

13. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(c) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service,

derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 13. ~~[NRS 704.773 is hereby amended to read as follows:~~

~~704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer generators operating within its service area until the cumulative capacity of all such net metering systems is equal to [1] 2 percent of the utility's peak capacity.~~

~~2. If the net metering system of a customer generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:~~

~~(a) Shall offer to make available to the customer generator an energy meter that is capable of registering the flow of electricity in two directions.~~

~~(b) May, at its own expense and with the written consent of the customer generator, install one or more additional meters to monitor the flow of electricity in each direction.~~

~~(c) Shall not charge a customer generator any fee or charge that would increase the customer generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer generator.~~

~~3. If the net metering system of a customer generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:~~

~~(a) May require the customer generator to install at its own cost:~~

~~(1) An energy meter that is capable of measuring generation output and customer load; and~~

~~(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.~~

~~(b) Except as otherwise provided in paragraph (c), may charge the customer generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer generator, including, without limitation, customer, demand and facility charges.~~

~~(c) Shall not charge the customer generator any standby charge.~~

~~*~~ ~~At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.~~

~~4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:~~

~~(a) The particular provisions, limitations and responsibilities of a customer generator which must be included in a net metering tariff with regard to:~~

~~(1) Metering equipment;~~

~~(2) Net energy metering and billing; and~~

~~(3) Interconnection,~~

~~→ based on the allowable size of the net metering system.~~

~~(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.~~

~~(c) A timeline for processing applications and contracts for net metering applicants.~~

~~(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.]~~ *(Deleted by amendment.)*

Sec. 14. ~~[Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.]~~ *(Deleted by amendment.)*

Sec. 15. ~~[*"Renewable energy" has the meaning ascribed to it in NRS 704.7811.*]~~ *(Deleted by amendment.)*

Sec. 16. ~~[*"Renewable energy project" means real property, facilities and equipment used to generate electricity from renewable energy and all appurtenances and incidentals necessary, useful or desirable for any such real property, facilities and equipment.*]~~ *(Deleted by amendment.)*

Sec. 16.5. Chapter 271 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a county, city or town may establish a district to finance the construction and installation of renewable energy installations and energy efficiency improvements which the Director of the Office of Energy has determined are suitable for residential property pursuant to section 1 of this act.

2. If a governing body of a county, city or town establishes a district pursuant to subsection 1, the governing body shall:

(a) Establish a program to provide loans to owners of residential property in the district to assist the owners in constructing or installing renewable energy installations and energy efficiency improvements on the residential property.

(b) Issue special assessment bonds as provided in this chapter to finance the loans provided pursuant to the program.

(c) Establish criteria for determining the eligibility of an applicant and the residential property of the applicant for a loan provided pursuant to the program.

(d) Establish the maximum amount of a loan made pursuant to the program.

3. For each loan made pursuant to a program established pursuant to paragraph (a) of subsection 1:

(a) The period of the loan must not be less than 20 years.

(b) The rate of interest of the loan must be reasonable.

(c) The governing body must allow each owner of residential property to choose to repay the loan through an assessment levied by the governing body on the residential property of the owner.

(d) To ensure repayment of the loan, the governing body may record a lien for the amount of the loan against the residential property of an owner.

4. As used in this section:

(a) "Energy efficiency improvement" means a modification of residential property that is designed to reduce the energy consumption of the residential property.

(b) "Renewable energy" has the meaning ascribed to it in NRS 704.7811.

(c) "Renewable energy installation" means an installation that uses renewable energy to generate electricity.

Sec. 17. ~~[NRS 271.030 is hereby amended to read as follows:~~

~~271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.250, inclusive, *and sections 15 and 16 of this act* have the meanings ascribed to them in those sections.]~~ *(Deleted by amendment.)*

Sec. 18. ~~[NRS 271.265 is hereby amended to read as follows:~~

~~271.265 1. The governing body of a county, city or town, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:~~

~~(a) A commercial area vitalization project;~~

~~(b) A curb and gutter project;~~

~~(c) A drainage project;~~

~~(d) An off-street parking project;~~

~~(e) An overpass project;~~

~~(f) A park project;~~

~~(g) *A renewable energy project;*~~

~~*(h)* A sanitary sewer project;~~

~~[(h)] *(i)* A security wall;~~

~~[(i)] *(j)* A sidewalk project;~~

~~[(j)] *(k)* A storm sewer project;~~

~~[(k)] *(l)* A street project;~~

~~[(l)] *(m)* A street beautification project;~~

~~[(m)] *(n)* A transportation project;~~

~~[(n)] *(o)* An underpass project;~~

~~[(o)] *(p)* A water project; and~~

~~[(p)] *(q)* Any combination of such projects.~~

~~2. In addition to the power specified in subsection 1, the governing body of a city having a commission form of government as defined in NRS 267.010, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:~~

~~(a) An electrical project;~~

~~(b) A telephone project;~~

~~(c) A combination of an electrical project and a telephone project;~~

~~(d) A combination of an electrical project or a telephone project with any of the projects, or any combination thereof, specified in subsection 1; and~~

~~(e) A combination of an electrical project and a telephone project with any of the projects, or any combination thereof, specified in subsection 1.~~

~~3. In addition to the power specified in subsections 1 and 2, the governing body of a municipality, on behalf of the municipality and in its name, without an election, may finance an underground conversion project with the approval of each service provider that owns the overhead service facilities to be converted.~~

~~4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than 400,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:~~

~~(a) An art project; and~~

~~(b) A tourism and entertainment project.~~ *(Deleted by amendment.)*

Sec. 19. NRS 331.095 is hereby amended to read as follows:

331.095 1. The Chief shall establish a program to track the use of energy in buildings owned by the State and ~~[may establish such a program, where appropriate, for]~~ *in* other buildings *which are* occupied by a state agency ~~[.]~~ *and whose owners comply with the program pursuant to subsection 6.*

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The Chief may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. *In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the*

Interim Finance Committee may determine an amount of money to be used by the Chief to fulfill the requirements of subsection 1.

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the Buildings and Grounds Division for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

6. Notwithstanding any other provision of law, an owner of a building who enters into a contract with a state agency for occupancy in his building:

(a) If the contract is entered into before the effective date of this act, may comply with the program; and

(b) If the contract is entered into on or after the effective date of this act, shall , to the extent practicable as determined by the Chief, comply with the program.

➥ *If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after the effective date of this act, enter into a contract for occupancy of a building owned by the owner ~~[.]~~ , except that the Chief may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the Chief determines that it is impracticable for the owner to comply with the program.*

Sec. 20. Any kilowatts of capacity that have been unused from the inceptions of the Solar Energy Systems Incentive Program, Wind Energy Systems Demonstration Program and Waterpower Energy Systems Demonstration Program pursuant to NRS 701B.260, 701B.620 and 701B.850 until the effective date of this act may be allocated pursuant to the amendatory provisions of sections 3, 6 and 9 of this act.

Sec. 20.5. 1. There is hereby appropriated from the State General Fund the sum of $25,000 to the Interim Finance Committee for allocation during the Fiscal Years 2009-2010 and 2010-2011 to the Office of Energy, which money may be used only to hire a qualified, independent consultant who must be an expert in economics, finance or engineering. The independent consultant shall act as a liaison between the Office of Energy, the Public Utilities Commission of Nevada and providers of electric service in this State to coordinate the efforts of those entities to implement the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon demonstrated need by the Office of Energy and approval by the State Board of Examiners.

2. Any remaining balance of the appropriation made by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2011, and must be reverted to the State General Fund on or before September 16, 2011. Any remaining balance of the money allocated to the Office of Energy

pursuant to subsection 1 must not be committed for expenditure after June 30, 2011, must not be spent for any purpose after September 16, 2011, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 21. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. Amendment No. 387 requires the Director of the Office of Energy to adopt regulations establishing a list of renewable-energy installations and energy-efficiency improvements suitable for residential property.

The amendment deletes provisions requiring apportionment of portfolio energy credits and increasing the net-metering cap from 1 percent to 2 percent.

This also authorizes the Public Utilities Commission of Nevada to establish a new rate for low-income utility customers. It allows the Chief of the Buildings and Grounds Division to negotiate energy-tracking provisions in leases with private landlords.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Care moved that Senate Bill No. 358 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 378.

Bill read second time.

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

Amendment No. 452.

"SUMMARY—Establishes ~~[requirements for]~~ *provisions relating to* certain early childhood education programs. (BDR 34-1134)"

"AN ACT relating to education; requiring the Department of Education to develop a plan for early childhood education; requiring the ~~[State Board of Education to establish requirements]~~ *Department to apply for money* for certain prekindergarten programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this* bill requires the Department of Education to adopt a plan for early childhood education ~~[. This bill further requires the State Board of Education to adopt regulations relating to the academic standards, curriculum and educational personnel of such programs. The provisions of this bill apply only to]~~ *for* programs of prekindergarten education which are provided by a school district or charter school, or which are supported by public money.

Section 3 of this bill further requires the Department to apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to certain programs of prekindergarten education.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish a plan for early childhood education in this State which sets forth the standards and guidelines for programs of prekindergarten education. The plan must be designed to promote the development and school readiness of children in prekindergarten education in this State and must include, without limitation, guidelines for:

(a) The physical well-being and motor development of children;

(b) The successful adjustment of children to a school environment;

(c) Suggested approaches to learning and methods for teaching children;

(d) The development of speech and language of children; and

(e) Providing general knowledge to children.

2. ~~[The State Board shall adopt regulations to carry out the plan for early childhood education and to establish standards for programs of prekindergarten education, which must include, without limitation:~~

~~(a) Requirements for educational personnel and other personnel who provide prekindergarten education to children.~~

~~(b) Standards of content and performance which are designed to begin a child's exposure, to the extent practicable, to the standards of content and performance established pursuant to NRS 389.520.~~

~~(c) Requirements for the curriculum of programs of prekindergarten education, including, without limitation, guidelines for the selection of instructional materials that have been proven effective for early childhood learning.~~

~~(d) Methods for engaging and involving families of children in prekindergarten.~~

~~(e) Methods to formally and informally observe and document the school readiness of children in prekindergarten.~~

~~3.]~~ Each program of prekindergarten education in this State which is provided by a school district or charter school, or which operates, in whole or in part, using money from a public source must comply with the provisions of the plan developed by the Department pursuant to subsection 1. ~~[and the regulations adopted by the State Board pursuant to subsection 2.~~

~~4.]~~ 3. The Department may:

(a) Adopt, implement and provide training to educational personnel and other personnel who provide prekindergarten education to children in this State.

(b) Provide assistance to programs of prekindergarten education in this State to ensure the school readiness of children who attend prekindergarten.

~~[5.]~~ 4. The Department shall, within the limits of money available for that purpose, grant money to programs of prekindergarten education which comply with the provisions of this section.

~~[6.]~~ 5. *The Superintendent of Public Instruction shall prepare an annual report concerning the plan developed pursuant to subsection 1 and the programs of prekindergarten education conducted in this State, including, without limitation:*

(a) Demographic information for children enrolled in such programs; and

(b) An analysis of the school readiness of children who complete a program of prekindergarten education.

~~[7.]~~ 6. *The Superintendent of Public Instruction shall submit the report prepared pursuant to subsection ~~[6]~~ 5 on or before February 1 of each:*

(a) Odd-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Even-numbered year to the Legislative Committee on Education.

~~[8.]~~ 7. *Nothing in this section requires:*

(a) A school district, charter school or the Department to provide a program of prekindergarten education; or

(b) A parent or legal guardian of a child to enroll the child in a program of prekindergarten education.

~~[9.]~~ 8. *As used in this section, "school readiness" means the ability of a child to enter kindergarten with an appropriate level of skills, knowledge and maturity to successfully participate in kindergarten.*

Sec. 2. NRS 392.375 is hereby amended to read as follows:

392.375 1. At least twice each school year, a school district shall require all the pupils in the school district who ride a school bus to practice the evacuation of a school bus for a purpose other than a crisis governed by NRS 392.600 to 392.656, inclusive, and to receive instruction in the responsibility of a passenger of a school bus to use the emergency exit doors on the bus during such an evacuation.

2. Each school district shall adopt a safety program which does not concern a crisis governed by NRS 392.600 to 392.656, inclusive, and which includes, without limitation:

(a) The procedure for pupils to safely enter and exit a school bus, including entering and exiting with a driver of a school bus as an escort;

(b) Proper behavior and conduct of pupils while in areas around a school bus where a high risk of danger to pupils exists, including the area that is used to load and unload school buses;

(c) Behavior and conduct of pupils while on a school bus that will enhance the safety of the pupils;

(d) Evacuation of pupils from a school bus; and

(e) The location of emergency equipment on a school bus.

➥ At least annually, a school district shall require all pupils who are enrolled in preschool, *prekindergarten,* kindergarten and in grades 1 to 4, inclusive, in the school district who ride a school bus to participate in the safety program created pursuant to this section.

3. If a parent or legal guardian enrolls his child in preschool, *prekindergarten,* kindergarten or grades 1 to 6, inclusive, and the child will

be riding a school bus for the first time, the school shall provide the parent or legal guardian, upon enrollment, with written information concerning the safety of pupils on a school bus. The information must include, without limitation:

(a) A description of each location that is designated to load and unload a school bus which is in geographical proximity to the pupil's residence;

(b) Rules of conduct for pupils on a school bus and at an area that is designated for pupils to enter and exit a school bus;

(c) Instructions for the operation of a motor vehicle:

(1) At school crossing zones and in areas that are designated to load and unload a school bus; and

(2) When a driver of a school bus operates a system of flashing red lights;

(d) A description of the area around a school bus that poses a high risk of danger to pupils and other pedestrians; and

(e) Behavior and conduct for pupils who walk to and from an area that is designated for pupils to enter and exit a school bus that will enhance the safety of the pupils.

4. The board of trustees of each school district shall adopt regulations regarding practices conducted pursuant to subsection 1 and participation in safety programs required by subsection 2, including the requirement of such practices and participation in such programs at the beginning of any field trip by school bus.

Sec. 3. *1. The Department shall apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act.*

2. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive School Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act, the money must be deposited in the State Distributive School Account and accounted for separately.

~~[Sec. 3.]~~ *Sec. 4.* 1. This section and section *3 of this act become effective upon passage and approval.*

2. Section 1 of this act ~~[become]~~ *becomes* effective on July 1, 2009, for purposes of developing a plan for early childhood education ~~[and adopting regulations]~~ and on July 1, 2010, for all other purposes.

~~[2.]~~ *3.* Section 2 of this act becomes effective on July 1, 2010.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 452 to Senate Bill No. 378 removes the requirement for the State Board to adopt regulations relating to the academic standards, curriculum and educational personnel of early childhood education programs.

It adds a requirement for the Department to apply for federal funds from the American Recovery and Reinvestment Act of 2009 for support of the State's plan for early childhood education.

Amendment adopted.

Bill ordered reprinted and engrossed and to third reading.

Senator Wiener moved that Senate Bill No. 378 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 379.

Bill read second time.

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

Amendment No. 295.

"SUMMARY—Revises provisions governing certain educational programs. (BDR 34-285)"

"AN ACT relating to education; authorizing the Department of Education, within the limits of available money, to award grants of money to school districts for certain programs and assistance; *repealing the Account for Programs for Innovation and the Prevention of Remediation and the Trust Fund for Educational Technology;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a school district *or charter school* to submit an application to the Department of Education for a grant of money for certain educational programs, including, without limitation, programs of ~~[full-day kindergarten,]~~ *educational technology,* programs for innovation and the prevention of remediation, programs for peer mediation and programs for career and technical education. To the extent money is available, the Department may award grants of money to school districts *and charter schools* whose applications are approved.

Existing law creates the Commission on Educational Excellence, which allocates money to public schools and consortiums of public schools for certain programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils. (NRS 385.3781-385.379) Existing law also creates the Account for Programs for Innovation and the Prevention of Remediation. (NRS 385.379) Section 7 of this bill repeals the Commission, the Account and related provisions. Section 1 of this bill authorizes the Department, upon application of a school district, to award a grant of money for such programs, practices and strategies for innovation and the prevention of remediation.

Existing law creates the Commission on Educational Technology and requires the Commission to allocate money to school districts from the Trust Fund for Educational Technology. (NRS 388.780-388.805) ~~[Sections 4 and 5]~~ *Section 4* of this bill ~~[revise]~~ *revises* these allocations so that the Commission makes recommendations to the Department for the allocation of money ~~[from]~~ *pursuant to section 1 that will be used for educational technology. Section 7 of this bill repeals* the Trust Fund.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district , ~~[may,]~~ based upon requests submitted by principals of the public schools located within the school district, or the governing body of a charter school may submit an application to the Department for a grant of money from the money available for any of the programs or assistance set forth in subsection 2. The application must be on a form prescribed by the Department and include, without limitation:

(a) A plan for the use of the money requested by the board of trustees ~~[,]~~ or the governing body, which must:

(1) Be designed to support the plan to improve the achievement of pupils enrolled in the school district prepared by the board of trustees pursuant to NRS 385.348 , if applicable, as well as the plans to improve the achievement of pupils prepared by the individual schools within the school district or the charter school, as applicable, pursuant to NRS 385.357;

(2) Be based on practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils; and

(3) Include one or more of the programs or assistance set forth in subsection 2.

(b) The amount of money requested by the board of trustees or governing body to carry out the educational programs or assistance, as applicable, that the school district or charter school intends to offer pursuant to this section.

(c) ~~[A]~~ If a school district submitted the application, a prioritized list of the schools and programs or assistance, as applicable, for which the school district is requesting a grant of money and a description of how the money will be used to support the plan to improve the achievement of pupils prepared by each of those schools.

(d) If the governing body of a charter school submitted the application, a prioritized list of the programs or assistance, as applicable for which the governing body is requesting a grant of money and a description of how the money will be used to support the plan to improve the achievement of pupils prepared by the charter school.

2. Money may be granted pursuant to this section for one or more of the following:

(a) ~~[Programs of full-day kindergarten;~~

~~(b)~~ *Programs that incorporate educational technology in accordance with the plan established by the Commission on Educational Technology pursuant to NRS 388.795;*

~~(c)~~ *(b) Programs of peer mediation;*

~~(d)~~ *(c) The program used by the Geographic Alliance in Nevada;*

~~(e)~~ *(d) Programs for the certification of counselors offered in this State or offered by a national certification agency;*

~~(f)~~ *(e) Assistance for the support teams established pursuant to NRS 385.3721 for non-Title I schools, including, without limitation, to pay for substitute teachers as necessary for the teachers at the school who serve on the support team to carry out the duties and responsibilities of the support team;*

~~(g)~~ *(f) Programs of career and technical education;*

~~(h) Programs of empowerment schools and other programs which are designed to provide schools with site-based decision making; and~~

~~(i)~~ *and*

(g) Programs for innovation and the prevention of remediation that use programs, practices and strategies that have been proven effective in improving the academic achievement and proficiency of pupils.

3. To the extent that money is available from legislative appropriation or otherwise for any program or assistance set forth in subsection 2, the Department shall provide grants of money to school districts and charter schools with approved applications based upon the amount of money that is necessary to carry out the educational programs or assistance, as set forth in the application of the school district ~~.~~ or charter school. If an insufficient amount of money is available to pay for the total amount requested in each application, the available money must be distributed in a fair and equitable manner among the school districts and charter schools with approved applications based upon the prioritized list submitted by each school district and charter school pursuant to subsection 1.

4. The board of trustees of a school district or the governing body of a charter school that receives a grant of money pursuant to this section shall not use the money ~~for~~ :

(a) For the construction or maintenance of buildings or facilities.

(b) To settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or charter school and the school district or charter school, as applicable.

(c) To adjust the schedules of salaries and benefits of the employees of the school district or charter school, as applicable.

5. Money granted to a school district or charter school pursuant to the provisions of this section may only be committed for expenditure during the biennium in which it was granted and any unused funds must be returned to the Department by the board of trustees or governing body on or before the deadline determined by the Department.

6. The board of trustees of a school district or the governing body of a charter school that receives a grant of money pursuant to this section shall, on or before February 1 of each odd-numbered year, submit a written report to the Department and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Nevada Legislature. The report must include, without limitation:

(a) The name of each school that received a grant pursuant to this section and the amount of each grant;

(b) The program or other assistance for which each school expended the money; and

(c) An evaluation of the program or other assistance for which each school expended the money, including, without limitation, the effectiveness of the program or assistance on the academic achievement and proficiency of pupils enrolled in the school.

Sec. 2. NRS 385.389 is hereby amended to read as follows:

385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015, including, without limitation, programs that are designed for pupils who are limited English proficient. The programs adopted for pupils who are limited English proficient must be designed to:

(a) Improve the academic achievement of those pupils; or

(b) Assist those pupils with attaining proficiency in the English language.

➥ In adopting these programs of remedial study, the Department shall consider the recommendations submitted by the Committee pursuant to NRS 218.5354 and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

2. If a school fails to make adequate yearly progress or if less than 60 percent of the pupils enrolled in a school who took the examinations administered pursuant to NRS 389.015 received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1 or a program, practice or strategy recommended by the ~~[Commission on Educational Excellence pursuant to NRS 385.3785,]~~ *Committee pursuant to NRS 218.5354*, or any combination thereof, as applicable.

3. A school district that includes a school described in subsection 2 shall ensure that each of the pupils enrolled in the school who failed to demonstrate at least adequate achievement on the examinations administered pursuant to NRS 389.015 completes, in accordance with the requirements set forth in subsection 4 of NRS 389.015, remedial study that is determined to be appropriate for the pupil.

Sec. 3. NRS 388.780 is hereby amended to read as follows:

388.780 As used in NRS 388.780 to ~~[388.805,]~~ ~~*[388.800,]*~~ *388.795*, inclusive, unless the context otherwise requires, the words and terms defined

in NRS 388.785 and 388.787 have the meanings ascribed to them in those sections.

Sec. 4. 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 *and charter schools* 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;

(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 governing body of each charter school.*

(e) 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]~~ *Make recommendations to the Department for the allocation of* money to the school districts ~~[from the Trust Fund for Educational Technology created pursuant to NRS 388.800]~~ *and charter schools pursuant to paragraph (a) of subsection 2 of section 1 of this act* 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 *and governing bodies of charter schools* that receives an allocation of money ~~[from the Commission]~~ *pursuant to paragraph (a) of subsection 2 of section 1 of this act* 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 *school* district ~~[.]~~ *or charter school.*

(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 *and charter school* 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 ~~[.]~~ *and charter school,* if applicable;

(c) Evaluations of educational technology conducted for the State *,* ~~[or]~~ for a school district ~~[.]~~ *or for a charter school,* 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. 5. ~~[NRS 388.800 is hereby amended to read as follows:~~

~~388.800 1. The Trust Fund for Educational Technology is hereby created in the State General Fund. The Trust Fund must be administered by the Superintendent of Public Instruction. The Superintendent may accept gifts and grants of money from any source for deposit in the Trust Fund. Any such money may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 3.~~

~~2. The interest and income earned on the money in the Trust Fund must be credited to the Trust Fund.~~

~~3. The money in the Trust Fund may be used only for the distribution of money *by the Department* to school districts [to be used in kindergarten through 12th grade to obtain and maintain hardware and software for computer systems, equipment for transfer of data by modem through connection to telephone lines, and other educational technology as may be approved by the Commission for use in classrooms.] *pursuant to section 1 of this act based upon the recommendations of the Commission to the Department pursuant to NRS 388.795.]*~~ *(Deleted by amendment.)*

Sec. 6. NRS 218.5354 is hereby amended to read as follows:

218.5354 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in ~~[NRS 385.3785,]~~ *subsection 2 of NRS 385.389 and section 1 of this act*, recommend to the ~~[Commission on Educational Excellence created by NRS 385.3784]~~ *Department of Education* programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 7. NRS 385.3781, 385.3782, 385.3783, 385.3784, 385.3785, 385.3787, 385.3789, 385.379 *, 388.800* and 388.805 are hereby repealed.

Sec. 8. *1.* Any money remaining unexpended on June 30, ~~[2009,]~~ *2010,* in the Account for Programs for Innovation and the Prevention of Remediation must not be committed for expenditure after June 30, ~~[2009,]~~ *2010,* by the entity which is responsible for the administration of the Account or any entity to which money from the Account is granted or otherwise transferred in any manner. The State Treasurer shall, on June 30, ~~[2009,]~~ *2010,* revert to the State General Fund any money remaining unexpended in the Account on that date.

2. Any money remaining unexpended on June 30, 2010, in the Trust Fund for Educational Technology must not be committed for expenditure after June 30, 2010, by the entity which is responsible for the administration of the Trust Fund or any entity to which money from the Trust Fund is granted or otherwise transferred in any manner. The State Treasurer shall, on June 30, 2010, revert to the State General Fund any money remaining unexpended in the Trust Fund on that date.

Sec. 9. 1. This section and section 8 of this act become effective ~~[upon passage and approval.]~~ *on January 1, 2010.*

2. Sections 1 to 7, inclusive, of this act become effective on July 1, ~~[2009.]~~ *2010.*

LEADLINES OF REPEALED SECTIONS

385.3781 Definitions.

385.3782 "Account" defined.

385.3783 "Commission" defined.

385.3784 Commission: Creation; membership; terms; meetings; compensation of members; duty of Department to provide administrative support; involvement of the Legislative Counsel Bureau in activities of Commission.

385.3785 Commission: Establishment of program of educational excellence; allocations of money to public schools and consortiums of public schools; Department required to provide list of priorities of schools; review of certain information by Commission.

385.3787 Use of money by public schools and consortiums of public schools that receive allocations from Account; submission of evaluation of effectiveness.

385.3789 Submission of annual reports by Commission; biennial audit of programs by Legislative Auditor.

385.379 Creation of Account for Programs for Innovation and the Prevention of Remediation; acceptance of gifts and grants; use of money in Account.

388.800 Trust Fund for Educational Technology: Creation; administration; interest and income; use of money in Fund.

388.805 Trust Fund for Educational Technology: Program for school districts to apply for money from Fund.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

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

Amendment No. 295 to Senate Bill No. 379 authorizes charter schools, in addition to school districts, to submit an application to the Department of Education for a grant of money for support of certain educational programs.

It eliminates programs of empowerment schools and full-day kindergarten from the eligible programs.

It clarifies the grants of money allocated to school districts and charter schools shall not be used to settle or arbitrate disputes or negotiate settlements between organizations that represent licensed educational employees or to adjust the salaries and benefits of educational employees.

In addition, the grant money may only be committed for expenditure during the biennium in which they were granted.

It certifies that the Commission on Educational Technology may make recommendations to the Department concerning grants of funding for educational technology purposes only.

The amendment repeals the Trust Fund for Educational Technology on June 30, 2010, and repeals the Account for Programs for Innovation and the Prevention of Remediation on June 30, 2010, instead of June 30, 2009.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 381.

Bill read second time.

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

Amendment No. 453.

"SUMMARY—Revises provisions governing the immunization of children against certain diseases. (BDR 38-809)"

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

"AN ACT relating to public health; requiring the Director of the Department of Health and Human Services to include coverage for certain immunizations of children; *authorizing the Health Division of the Department and the county, city, town and district boards of health to contract with insurers to provide certain immunizations;* requiring policies of health insurance to provide coverage for certain immunizations of children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, subject to certain exceptions, a child must be immunized against certain diseases before the child may be enrolled in a public or private school or admitted to a child care facility in this State. (NRS 392.435, 394.192, 432A.230) Existing law requires certain public and private health care plans and policies of insurance to provide coverage for the human papillomavirus vaccine. (NRS 287.0272, 422.2718, 689A.044, 689B.0313, 695B.1925, 695C.1745, 695G.171)

Section 1 of this bill requires the Director of the Department of Health and Human Services to include in the State Plan for Medicaid the provision of immunizations to children. ~~[and provides that the Plan may not require payment of a deductible, copayment or coinsurance for the immunizations.]~~ *Section 4 of this bill authorizes the Health Division of the Department and the county, city, town and district boards of health to enter into contract with insurers to provide certain immunizations. Section 4 also limits the amount such an insurer may charge for immunizations provided pursuant to such a contract.* Section 2 of this bill requires that plans of self-insurance provided by certain governmental agencies include coverage ~~[, without requiring payment of a deductible, copayment or coinsurance,]~~ for certain immunizations administered to children. Sections ~~[4, 6-8]~~ *5, 7-9* and ~~[10]~~ *11*

of this bill require policies of individual health insurance, policies of group health insurance, policies of health insurance issued by a hospital or medical service corporation, health care plans of health maintenance organizations and health care plans issued by managed care organizations to provide the same coverage for the administration of immunizations to children.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.]~~ *The Director shall include in the State Plan for Medicaid a requirement that the State pay the nonfederal share of expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.*

~~[2. The State Plan must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.]~~

Sec. 2. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada provides health insurance through a plan of self-insurance, the plan must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~*[A plan of self-insurance described in subsection 1 must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.*~~

~~*3.]*~~ *A plan of self-insurance described in subsection 1 which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.*

Sec. 3. 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 section* ~~*[10]*~~ *11 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. 4. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Health Division and the county, city, town and district boards of health may enter into a contract with an insurer to provide immunizations to persons insured by that insurer, including, without limitation, immunizations provided through a clinic for immunizations pursuant to NRS 439.535.

2. If an insurer enters into a contract pursuant to subsection 1, the insurer shall not require payment of a deductible, copayment or coinsurance for the provision of immunizations under the contract in an amount which exceeds the deductible, copayment or coinsurance required by the insurer for that immunization provided by any other provider of health care who has contracted with the insurer.

3. The State Board of Health shall adopt regulations to carry out the provisions of this section.

4. As used in this section, "insurer" means an insurer or organization that issues:

(a) A policy of individual health insurance in accordance with chapter 689A of NRS;

(b) A policy of group health insurance in accordance with chapter 689B of NRS;

(c) A policy of health insurance by a hospital or medical service corporation in accordance with chapter 695B of NRS;

(d) A health care plan by a health maintenance organization in accordance with chapter 695C of NRS;

(e) A health care plan by a managed care organization in accordance with chapter 695G of NRS;

(f) A health insurance plan through a plan of self-insurance in accordance with chapter 287 of NRS; or

(g) An employee welfare benefit plan providing medical care as defined in 29 U.S.C. § 1002 in accordance with the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1161 et seq.

~~[Sec. 4.]~~ *Sec. 5.* Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance providing coverage on an expense-incurred basis must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~[A policy of health insurance must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.~~

~~3.]~~ A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.

~~[Sec. 5.]~~ *Sec. 6.* 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 ~~[4]~~ 5 of this act.*

~~[Sec. 6.]~~ *Sec. 7.* Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of group health insurance must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~[A policy of group health insurance must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.~~

~~3.]~~ A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.

~~[Sec. 7.]~~ *Sec. 8.* Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance issued by a hospital or medical service corporation must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~[A policy of health insurance must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.~~

~~3.]~~ A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.

~~[Sec. 8.]~~ *Sec. 9.* Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan of a health maintenance organization must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~[A health care plan of a health maintenance organization must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.~~

~~3.]~~ Any evidence of coverage subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.

~~[Sec. 9.]~~ *Sec. 10.* 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 ~~[8]~~ 9 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. 10.]~~ *Sec. 11.* 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 must provide coverage for benefits payable for expenses incurred for administering any immunization recommended by the State Board of Health or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services to a child who is less than 18 years of age.

2. ~~*[A health care plan issued by a managed care organization must not require payment of a deductible, copayment or coinsurance for the provision of benefits pursuant to this section.*~~

~~*3.]*~~ *Any evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2009, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.*

~~[Sec. 11.]~~ *Sec. 12.* 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. 12.]~~ *Sec. 13.* This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 453 to Senate Bill No. 381 authorizes the Health Division and the county, city, town and district boards of health to contract with health insurers to provide certain immunizations.

The amendment clarifies that health insurance that provides coverage on an expense-incurred basis are excluded from the requirement to cover immunizations of children pursuant to Senate Bill No. 381 and removes the provision that prohibits Medicaid and other health insurers from requiring payment of deductibles, copayment or coinsurance for the immunizations.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 388.

"SUMMARY—Makes various changes regarding renewable energy and energy efficiency and alters the composition of the Commission on Economic Development. (BDR 58-1219)"

"AN ACT relating to state financial administration; making various changes regarding renewable energy and energy efficiency; altering the composition of the Commission on Economic Development; *making certain appropriations;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill: (1) expand the types of facilities relating to renewable energy for which a tax abatement may be granted; (2) ~~[broaden the definition of "biomass" to include landfill gas; (3)]~~ provide that certain facilities must have a generating capacity of 1 megawatt instead of 10 kilowatts; and ~~[(4)]~~ *(3)* add to the definition of "renewable energy" hydrogen derived from renewables.

~~[Sections 1, 2, 13 and 17 of this bill impose a new requirement to qualify for a tax abatement by providing that a facility for the generation of electricity from renewable energy must either bring into the State a manufacturer of components for the generation of renewable energy or procure a certain percentage of the components that it uses from a manufacturer which operates in this State.]~~

Section 3 of this bill incrementally extends and increases the portfolio standards for providers of electric service so that, by 2025, at least 25 percent of the electricity sold to retail customers by those providers must be derived from portfolio energy systems or efficiency measures.

Section 4 of this bill alters the definition of "utility facility," as that term is used in the Utility Environmental Protection Act which provides for the issuance of permits for the construction of utility facilities, to require a

nameplate capacity of not more than 70 megawatts rather than a generating capacity of not more than 35 megawatts.

Section 5 of this bill exempts certain ~~[Nevada geothermal]~~ *renewable energy* facilities from certain findings that are a condition precedent to permitting under the Utility Environmental Protection Act.

Sections 6 and 24 of this bill alter the composition of the Commission on Economic Development to require that at least two of the appointed members be from counties whose population is less than 100,000. (NRS 231.040)

Section 8 of this bill requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards favoring the procurement of appliances, equipment, lighting and other devices that bear the "Energy Star" label *or meet other requirements prescribed by federal law* unless to do so would not be cost-effective.

Section 10 of this bill requires the State Public Works Board to adopt standards and performance guidelines concerning the efficient use of water and energy.

~~[Section]~~ *Sections* 13 *and 22* of this bill ~~[eliminates]~~ *eliminate* abatements from the local school support tax but ~~[leaves]~~ *retain* abatements from other local sales and use taxes.

Section 15 of this bill requires, with respect to tax abatements relating to renewable energy, that the Commission on Economic Development forward certificates of eligibility to the Office of Energy.

Section 16 of this bill states that businesses which receive a partial abatement pursuant to NRS 360.750 must annually file with the Department of Taxation a sworn certification of compliance with the terms of the abatement.

Section 18 of this bill requires ~~[new]~~ vehicle dealers in Nevada, beginning with the 2012 model year and thereafter, to ensure that each new vehicle offered for sale is accompanied by a disclosure of the vehicle's estimated carbon dioxide emissions ~~[.]~~ *if such information is available.*

Section 22.5 of this bill appropriates $25,000 to the Interim Finance Committee for allocation to the Office of Energy, upon a showing of need, to cover the costs of adopting the regulations which the Director of the Office is required to adopt pursuant to chapter 701 of NRS.

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

Section 1. NRS 701A.220 is hereby amended to read as follows:

701A.220 1. If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy ~~[or]~~ *, a facility for the transmission of electricity produced from renewable energy, a facility for the manufacturing of renewable energy devices,* a facility for the production of an energy storage device ~~[.]~~ *or a facility for the research and development of renewable energy:*

(a) The partial abatement *:* ~~[must be:]~~

(1) ~~[For]~~ *Must be for* a duration of *not more than* 10 years;

(2) ~~[Equal to 50]~~ *May be equal to up to 100* percent of the taxes on real and personal property payable by the facility each year; and

(3) Administered and carried out in the manner set forth in NRS 360.750.

(b) ~~*[If the partial abatement pertains to a facility for the generation of electricity from renewable energy, the person applying for the abatement must satisfy the additional requirements set forth in paragraph (c) of subsection 2 of NRS 361.0687.*~~

~~*(c)]*~~ The Executive Director of the Commission on Economic Development shall:

(1) Notify *the Department of Taxation and* the county assessor of the county in which the facility is located of the approval of the partial abatement; and

(2) Advise *the Department of Taxation and* the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.

2. *In addition to any partial abatement described in subsection 1, the Commission on Economic Development may approve a partial abatement from the taxes imposed pursuant to chapter 361 of NRS on lines and collector systems that transmit electricity from a facility for the generation of electricity from renewable energy to ~~[larger]~~ interstate transmission lines which transmit the electricity to market. The abatement described in this subsection must not exceed 25 percent.*

3. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) ~~*[Landfill gas;*~~

~~*(4)]*~~ Animal wastes;

(4) ~~*[(5)]*~~ Municipal wastes; and

(5) ~~*[(6)]*~~ Aquatic plants.

(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least ~~[10 kilowatts.]~~ *1 megawatt.*

➥ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.

(d) ~~*["Landfill gas" means gas generated from the decomposition of municipal solid waste.*~~

~~*(e)]*~~ "Renewable energy" means ~~[:]~~ *a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

(1) Biomass;

(2) *Geothermal energy;*

(3) Hydrogen derived from renewables;

(4) Solar energy; ~~[or~~

~~(3) Wind.]~~

(5) Waterpower; or

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

~~*[(f)]*~~ *(e) "Renewable energy device" means a system, mechanism or series of mechanisms that produce renewable energy.*

Sec. 2. NRS 701A.230 is hereby amended to read as follows:

701A.230 *1.* If an application for an abatement from taxes pursuant to ~~[NRS 374.357]~~ *section 13 of this act* is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy ~~[or]~~ *, a facility for the transmission of electricity produced from renewable energy, a facility for the manufacturing of renewable energy devices,* a facility for the production of an energy storage device ~~[:]~~ *or a facility for the research and development of renewable energy:*

~~[1.]~~ *(a)* The taxpayer is eligible for the abatement for 2 years.

~~[2.]~~ *(b)* The abatement must be administered and carried out in the manner set forth in NRS 360.750.

~~*[(c) If the application pertains to a facility for the generation of electricity from renewable energy, the person applying for the abatement must satisfy the additional requirements set forth in subsection 3 of section 13 of this act.]*~~

2. In addition to any abatement described in subsection 1, the Commission on Economic Development may approve an abatement from the taxes imposed pursuant to chapter 361 of NRS on lines and collector systems that transmit electricity from a facility for the generation of electricity from renewable energy to ~~[larger]~~ interstate transmission lines which transmit the electricity to market.

3. For the purposes of this section and the abatement, unless the context otherwise requires:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) ~~*[Landfill gas;*~~

~~*(4)]*~~ Animal wastes;

(4) ~~*[(5)]*~~ Municipal wastes; and

(5) ~~[(6)]~~ Aquatic plants.

(b) "Eligible machinery or equipment" means:

(1) If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(I) Buildings or the structural components of buildings;

(II) ~~[Equipment used by a public utility;~~

~~(III)]~~ Equipment used for medical treatment;

~~[(IV)]~~ *(III)* Machinery or equipment used in mining;

~~[(V)]~~ *(IV)* Machinery or equipment used in gaming; or

~~[(VI)]~~ *(V)* Aircraft.

(2) If the business that qualifies for the abatement is a facility for the generation *and transmission* of electricity from renewable energy, all the machinery and equipment that is used in the facility to ~~[collect]~~ *:*

(I) Collect and store the renewable energy ~~[and to convert]~~ *;*

(II) Convert the renewable energy into electricity ~~[.]~~ *; and*

(III) Transmit the electricity.

(3) Lines and collector systems as described in subsection 2.

(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(d) "Facility for the generation *and transmission* of electricity from renewable energy" means a facility for the generation *and transmission* of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least ~~[10 kilowatts.]~~ *1 megawatt.*

➥ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy , ~~[and]~~ to convert the renewable energy into electricity ~~[.]~~ *and to transmit the electricity.* The term does not include a facility that is located on residential property.

(e) ~~["Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f)] ["Landfill gas" means gas generated from the decomposition of municipal solid waste.~~

~~(f)]~~ "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) ~~[Fuel cells;~~

~~(3)]~~ Geothermal energy;

~~[(4)]~~ *(3) Hydrogen derived from renewables;*

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

~~*[(g)]*~~ *(f) "Renewable energy device" means a system, mechanism or series of mechanisms that produce renewable energy.*

Sec. 3. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For *the period consisting of* calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that ~~*[each such* calendar year.]~~ *period.*

(b) For *the period consisting of* calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that ~~*[each such* calendar year.]~~ *period.*

(c) For *the period consisting of* calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that ~~*[each such* calendar year.]~~ *period.*

(d) For *the period consisting of* calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that ~~*[each such* calendar year.]~~ *period.*

(e) For *the period consisting of* calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that ~~*[each such* calendar year.]~~ *period.*

(f) For *the period consisting of* calendar ~~[year 2015 and for each calendar year thereafter,]~~ *years 2015 ~~[through 2019,]~~ and 2016 and the period consisting of calendar years 2017 and 2018*, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during ~~[that]~~ *each ~~[such* calendar year.]~~ period.*

(g) For the period consisting of calendar years 2019 and 2020 ~~[through]~~ , the period consisting of calendar years 2021 and 2022 and the period consisting of calendar years 2023 and 2024, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during each ~~[such calendar year.]~~ period.

(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during each such calendar year.

2. Except as otherwise provided in subsection 3, in addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during ~~[each calendar year,]~~ :

(1) The periods consisting of calendar years 2009 and 2010, 2011 and 2012, and 2013 and 2014, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems ~~[.]~~ *; and*

(2) The periods consisting of calendar years 2015 and 2016, 2017 and 2018, 2019 and 2020, 2021 and 2022, and 2023 and 2024, and calendar year 2025 and each calendar year thereafter, not less than 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year ~~[,]~~ *or period of calendar years,* not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year ~~[,]~~ *or period of calendar years,* of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year ~~[.]~~ *or period of calendar years,* not more than 25 percent of that amount may be based on energy efficiency measures.

4. If, for the benefit of one or more retail customers in this State, the provider, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS, has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the

consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

5. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

6. Except as otherwise provided in subsection 7, each provider shall comply with its portfolio standard during each calendar year ~~[.]~~ *or period of calendar years, as applicable.*

7. If, for any calendar year ~~[,]~~ *or period of calendar years, as applicable,* a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year ~~[,]~~ *or period of calendar years,* there is not or will not be a sufficient supply of electricity *for any reason, including, without limitation, the inability of the provider to obtain the necessary permits or other approvals from any governmental entity for the construction of transmission facilities necessary to transmit renewable energy to the provider's system* or *there is not or will not be* a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year ~~[,]~~ *or period of calendar years,* from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

8. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a ~~[generating]~~ *nameplate* capacity of not more than ~~[35]~~ *70* megawatts, including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) ~~[The]~~ *Except with respect to a ~~[geothermal]~~ renewable energy facility that is built in Nevada pursuant to NRS 704.820 to 704.900, inclusive, and*

emits greenhouse gases, the extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; and

(f) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (f) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

Sec. 6. NRS 231.040 is hereby amended to read as follows:

231.040 1. The Commission on Economic Development is composed of the Lieutenant Governor, who is its Chairman, and six members who are appointed by the Governor.

2. The Governor shall appoint as members of the Commission persons who *are residents of Nevada and who* have proven experience in economic development which was acquired by them while engaged in finance, manufacturing, mining, agriculture, the field of transportation, or in general business other than tourism or gaming.

3. The Governor shall appoint ~~[at]~~ *to the Commission:*

(a) At least one member who is a resident of ~~[:~~

~~(a)]~~ Clark County.

(b) *At least one member who is a resident of* Washoe County.

(c) ~~[A county]~~ *At least two members who are residents of counties* whose population is ~~[50,000 or less.]~~ *less than 100,000.*

Sec. 7. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible pursuant to ~~[NRS 374.357]~~ *section 13 of this act* for an abatement from ~~[the]~~ *local* sales and use taxes ~~[imposed pursuant to chapter 374 of NRS.]~~ *, as that term is defined in NRS 360.750.*

Sec. 8. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall adopt regulations which set forth standards to be used by using agencies when purchasing new appliances, equipment, lighting and other devices that use electricity ~~[.]~~ *, natural gas, propane or oil. Except as otherwise provided in subsection 2, the standards must require that such new appliances, equipment, lighting and other devices have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor* ~~[.]~~ *, or meet the requirements established pursuant to 48 C.F.R. § 23.203.*

2. The standards described in subsection 1 do not apply insofar as:

(a) No items in a given class of appliances, equipment, lighting or other devices have been evaluated to determine whether they are eligible to receive the Energy Star label ~~[;]~~ *or have been designated by the Federal Government to meet the requirements established pursuant to 48 C.F.R. § 23.203; or*

(b) The purchase of new appliances, equipment, lighting or other devices that have received the Energy Star label would not be cost-effective in an individual instance, comparing the cost of the item to the cost of the amount of ~~*[electricity]*~~ *energy that will be saved over the useful life of the item.*

Sec. 9. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable ~~[, the]~~ *:*

(1) The imposition of the inverse preference described in NRS 333.336.

(2) The required standards adopted pursuant to section 8 of this act.

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 10. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of the design and construction of buildings or other projects of this State, the Board shall adopt by regulation:

(a) Standards for the efficient use of water.

(b) Standards for the efficient use of energy, including, without limitation, the use of sources of renewable energy.

(c) Performance guidelines for new, remodeled and renovated buildings.

(d) Performance guidelines for retrofit projects, including, without limitation, guidelines for:

(1) Energy consumption.

(2) The use of potable water.

(3) The use of water for purposes relating to landscaping.

(4) The disposal of solid waste.

2. The standards and performance guidelines adopted in accordance with subsection 1 must include a mechanism for their evaluation and revision to ensure that such standards and guidelines:

(a) Are cost-effective over the life of the applicable project.

(b) Produce certain threshold levels of cost savings.

3. In adopting the standards and performance guidelines pursuant to subsection 1, the Board may consider, without limitation:

(a) The Leadership in Energy and Environmental Design Green Building Rating System established by the United States Green Building Council or its successor;

(b) The Green Globes assessment and rating system developed by the Green Building Initiative or its successor;

(c) The standards established by the United States Environmental Protection Agency pursuant to the Energy Star Program;

(d) The standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers or its successor;

(e) The criteria established pursuant to the Federal Energy Management Program established by the United States Department of Energy; and

(f) The criteria established by the International Energy Conservation Code.

4. The regulations adopted pursuant to this section must include provisions for their enforcement.

~~[4.]~~ *5. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701A.220.*

Sec. 11. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive ~~[.]~~ *, and section 10 of this act.*

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 12. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the Board as provided in NRS 341.141 to 341.148, inclusive ~~[.]~~ *, and section 10 of this act.*

Sec. 13. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes

imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in NRS 701A.230, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the local sales and use taxes for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~[In addition to meeting any other applicable requirements, if a person is applying for an abatement from the local sales and use taxes for a business that operates a facility for the generation of electricity from renewable energy:~~

~~(a) The business must bring into the State or cause to be brought into the State a manufacturer of components for the generation of renewable energy, which manufacturer satisfies the requirements of subsection 2 of NRS 360.750; or~~

~~(b) The business must purchase a certain minimum percentage of the components it requires for the generation of energy from companies that manufacture those components in the State. The Commission on Economic Development shall adopt regulations setting forth the minimum percentage necessary to satisfy the requirements of this paragraph.~~

~~4.]~~ For the purposes of this section, except as otherwise provided in NRS 701A.230 or unless the context otherwise requires:

(a) "Eligible machinery or equipment" means machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(1) Buildings or the structural components of buildings;

(2) ~~[Equipment used by a public utility;~~

~~(3)]~~ Equipment used for medical treatment;

~~[(4)]~~ (3) Machinery or equipment used in mining;

~~[(5)]~~ (4) Machinery or equipment used in gaming; or

~~[(6)]~~ (5) Aircraft.

(b) ~~["Facility for the generation of electricity from renewable energy" has the meaning ascribed to it in NRS 701A.220.~~

~~(c)]~~ "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.

Sec. 14. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to ~~[~~NRS 374.357,~~]~~ *section 13 of this act,*

➥ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

Sec. 15. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the ~~*[local]*~~ *:*

(a) Local sales and use taxes imposed on the new or expanded business ~~*[or taxes]*~~ *;*

(b) Taxes imposed on the new or expanded business pursuant to chapter 361 ~~[, 363B or 374]~~ *of NRS, other than taxes imposed for public education; or*

(c) Taxes imposed pursuant to chapter 363B of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city

whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year.

The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; ~~[and]~~

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer ~~[.]~~ *; and*

(d) If the abatement is related to renewable energy, including, without limitation, an abatement described in NRS 701A.220 or 701A.230, the Office of Energy within the Office of the Governor.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; ~~[and]~~

(2) *The duration and percentage of the abatements of taxes approved pursuant to NRS 701A.220, which must include, without limitation, provisions specifying that the determination of the duration and percentage of the abatement must be based in part on the anticipated beneficial economic effect to the State of the business, including, without limitation, the projected long-term job opportunities created by the business, the amount of components and equipment purchased by the business in this State, whether the business causes a manufacturer of renewable energy components to locate in Nevada and whether the energy generated by the business is used in Nevada; and*

(3) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

12. As used in this section ~~[, "local]~~ :

(a) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.

(b) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 16. NRS 360.755 is hereby amended to read as follows:

360.755 1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; ~~[and]~~

(b) *Agrees to file with the Department on an annual basis, under penalty of perjury, a statement certifying that the business is in compliance with the requirements for the partial abatement; and*

(c) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Commission on Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure.

The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

Sec. 17. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least $50,000,000 if the business is an industrial or manufacturing business or at least $5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least $5,000,000 if the business is an industrial or manufacturing business or at least $500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

~~[~~ *~~(c) In addition to meeting the applicable requirements of paragraphs (a) and (b), if the business is a business that operates a facility for the generation of electricity from renewable energy:~~*

~~(1) The business will bring into the State or cause to be brought into the State a manufacturer of components for the generation of renewable energy,~~

~~*which manufacturer satisfies the requirements of subsection 2 of NRS 360.750; or*~~

~~*(2) The business will purchase a certain minimum percentage of the components it requires for the generation of renewable energy from companies that manufacture those components in the State. The Commission on Economic Development shall adopt regulations setting forth the minimum percentage necessary to satisfy the requirements of this subparagraph.]*~~

3. Except as otherwise provided in NRS 701A.210 ~~[,]~~ *and 701A.220,* if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. As used in this section ~~*[:*~~

~~*(a) "Facility for the generation of electricity from renewable energy" has the meaning ascribed to it in NRS 701A.220.*~~

~~*(b) "Industrial]*~~ *, "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy.*

Sec. 18. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

Every ~~*[new]*~~ *vehicle dealer licensed in this State shall ensure that, beginning with the 2012 model year and continuing with subsequent model years, each new vehicle he offers for sale is accompanied by a prominent disclosure setting forth the estimated amount of carbon dioxide that the vehicle emits* ~~*[.]*~~ *, unless the information concerning the emissions for that vehicle is unavailable.*

Sec. 19. NRS 482.36414 is hereby amended to read as follows:

482.36414 A person who assumes operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, must be licensed as a dealer pursuant to the provisions of NRS 482.318 to 482.363, inclusive ~~[.]~~ *, and section 18 of this act.*

Sec. 20. Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. Except as otherwise provided in subsection 3:

(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

(1) The date, time and place of the proposed sale, lease or exchange.

(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

(3) Such other information as the City Council desires.

(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:

(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.

(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.

3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.

4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two-thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best

interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.

5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible *for an abatement from local sales and use taxes* pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ *section 13 of this act. As used in this subsection, "local sales and use taxes" has the meaning ascribed to it in NRS 360.750.*

9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

➥ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.

10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.

Sec. 21. Section 17 of chapter 539, Statutes of Nevada 2007, at page 3389, is hereby amended to read as follows:

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections ~~[5, 7,]~~ 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

Sec. 22. NRS 374.357 is hereby repealed.

Sec. 22.5. *1. There is hereby appropriated from the State General Fund the sum of $25,000 to the Interim Finance Committee for allocation during the Fiscal Year 2009-2010 to the Office of Energy to cover the costs of adopting the regulations required pursuant to chapter 701 of NRS. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon demonstrated need by the Office of Energy and approved by the State Board of Examiners.*

2. Any remaining balance of the appropriation made by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2010, and must be reverted to the State General Fund on or before September 17, 2010. Any remaining balance of the money allocated to the Office of Energy pursuant to subsection 1 must not be committed for expenditure after June 30, 2010, must not be spent for any purpose after September 17, 2010, and must be reverted to the State General Fund on or before September 17, 2010.

Sec. 23. The provisions of sections 1, 2, 7, 13 to 17, inclusive, 20 and 22 of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.

Sec. 24. As soon as practicable after July 1, 2009, the Governor shall appoint to the Commission on Economic Development any new members required to be appointed to the Commission pursuant to NRS 231.040, as amended by section 6 of this act.

Sec. 25. 1. This section and section 21 of this act become effective upon passage and approval.

2. Sections 1 to 20, inclusive, *and* 22 ~~[, 23 and]~~ *to* 24 *, inclusive,* of this act become effective on July 1, 2009.

TEXT OF REPEALED SECTION

374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(a) Buildings or the structural components of buildings;

(b) Equipment used by a public utility;

(c) Equipment used for medical treatment;

(d) Machinery or equipment used in mining; or

(e) Machinery or equipment used in gaming.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. This amendment revises provisions relating to partial tax abatements for certain renewable-energy projects.

The amendment also increases the renewable energy portfolio standard to a total of 25 percent renewables by 2025 and increases the Utility Environmental Protection Act exemption for renewables to 70 megawatts of nameplate capacity.

The amendment also makes various changes regarding renewable-energy, energy efficiency and alters the composition of the Commission on Economic Development.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Schneider moved that Senate Bill No. 395 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Schneider.

Motion carried.

Senator Horsford moved that the Senate recess until 4:30 p.m.

Motion carried.

Senate in recess at 2:43 p.m.

SENATE IN SESSION

At 5:22 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 128, 252, 269, 361, 363, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 267, 301, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Education, to which were referred Senate Bills Nos. 385, 389, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 381.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 259 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 295 be taken from the General File and placed on the General File on the fourth agenda.

Motion carried.

Senator Care moved that Senate Bill No. 381 be taken from the General File and rereferred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 8.

Bill read second time.

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

Amendment No. 418.

"SUMMARY—Makes various changes related to ~~[the process for appointment to]~~ *members of* certain medical boards. (BDR 54-216)"

"AN ACT relating to medical professions; ~~[revising the process for appointing members of]~~ *requiring* the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine ~~[; requiring these boards]~~ to retain copies of acknowledgments *by members of the boards* related to conflict of interest provisions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes the Governor to appoint the members of the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine. (NRS 630.050, 630A.100, 633.181) Sections 3, 6 and 9 of this bill revise the appointment process to allow nominations for board positions from certain sources. Sections 3, 6 and 9 also allow the Legislative Committee on Health Care to investigate the persons nominated and report to the Governor on these nominations. In addition, sections 3, 6 and 9 require the Governor to select a person to appoint from the list of persons nominated unless too few persons are nominated or the Legislative Committee on Health Care fails to transmit the list within a certain time.]~~

Existing law requires all public officers to read and understand statutory ethical standards and to acknowledge such on a form prescribed by the Commission on Ethics. (NRS 281A.500) Sections 4, 7 and 10 of this bill clarify that these requirements apply to members of the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine. Sections 4, 7 and 10 also require that the Executive Director of the Board of Medical Examiners, the Secretary-Treasurer of the Board of Homeopathic Medical Examiners and the Executive Director of the State Board of Osteopathic Medicine retain copies of the acknowledgment required pursuant to NRS 281A.500.

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

Section 1. ~~[NRS 629.097 is hereby amended to read as follows:~~

~~629.097 1. *Except as otherwise provided in sections 3, 6 and 9 of this act:*~~

~~*(a)* If the Governor must appoint to a board a person who is a member of a profession being regulated by that board, the Governor shall solicit nominees from one or more applicable professional associations in this State.~~

~~[2.] (b) To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.~~

~~[3.] (c) The Governor may appoint any qualified person to a board, without regard to whether the person is nominated pursuant to this section.~~

~~[4. 2. As used in this section, "board" refers to a board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C.]~~ *(Deleted by amendment.)*

Sec. 2. ~~[Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.]~~ *(Deleted by amendment.)*

Sec. 3. ~~*[1. At least 90 days before the beginning of any term of office of a member of the Board, or within 30 days after a position on the Board becomes vacant if it becomes vacant more than 120 days before the beginning of the next term of office for that position, the names of persons who are qualified for membership on the Board may be submitted to the Legislative Committee on Health Care by:*~~

~~*(a) Any medical society or professional association;*~~

~~*(b) The University of Nevada School of Medicine; and*~~

~~*(c) A member of the public.*~~

~~*2. If fewer than three names are submitted pursuant to subsection 1, the Governor may immediately appoint any qualified person to the position.*~~

~~*3. With respect to the list of persons nominated pursuant to subsection 1, the Legislative Committee on Health Care:*~~

~~*(a) May investigate the character and fitness of the persons nominated to serve on the Board; and*~~

~~*(b) May not remove any name from the list.*~~

~~*4. The Legislative Committee on Health Care may, not later than 60 days after the deadline for the receipt of nominations pursuant to subsection 1, submit to the Governor the list of persons nominated and the results of any investigations conducted pursuant to subsection 3.*~~

~~*5. Except as otherwise provided in subsections 2 and 6, the Governor shall appoint a new member or fill a vacancy from the list of persons nominated pursuant to subsection 1.*~~

~~*6. If the Legislative Committee on Health Care fails to submit the list to the Governor in accordance with subsection 4, the Governor may appoint any qualified person to the position.]~~ *(Deleted by amendment.)*

Sec. 4. *Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Each member of the Board shall comply with the provisions of NRS 281A.500.

2. Each member of the Board shall provide a copy of the acknowledgment filed pursuant to NRS 281A.500 to the Executive Director of the Board, and the Executive Director shall retain an acknowledgment

provided pursuant to this section for 6 years after the date on which the acknowledgment was provided to the Executive Director.

Sec. 5. ~~[Chapter 630A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.]~~ *(Deleted by amendment.)*

Sec. 6. ~~*[1. At least 90 days before the beginning of any term of office of a member of the Board, or within 30 days after a position on the Board becomes vacant if it becomes vacant more than 120 days before the beginning of the next term of office for that position, the names of persons who are qualified for membership on the Board may be submitted to the Legislative Committee on Health Care by:*~~

~~*(a) Any medical society or professional association;*~~

~~*(b) The University of Nevada School of Medicine; and*~~

~~*(c) A member of the public.*~~

~~*2. If fewer than three names are submitted pursuant to subsection 1, the Governor may immediately appoint any qualified person to the position.*~~

~~*3. With respect to the list of persons nominated pursuant to subsection 1, the Legislative Committee on Health Care:*~~

~~*(a) May investigate the character and fitness of the persons nominated to serve on the Board; and*~~

~~*(b) May not remove any name from the list.*~~

~~*4. The Legislative Committee on Health Care may, not later than 60 days after the deadline for the receipt of nominations pursuant to subsection 1, submit to the Governor the list of persons nominated and the results of any investigations conducted pursuant to subsection 3.*~~

~~*5. Except as otherwise provided in subsections 2 and 6, the Governor shall appoint a new member or fill a vacancy from the list of persons nominated pursuant to subsection 1.*~~

~~*6. If the Legislative Committee on Health Care fails to submit the list to the Governor in accordance with subsection 4, the Governor may appoint any qualified person to the position.]*~~ *(Deleted by amendment.)*

Sec. 7. *Chapter 630A of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Each member of the Board shall comply with the provisions of NRS 281A.500.

2. Each member of the Board shall provide a copy of the acknowledgment filed pursuant to NRS 281A.500 to the Secretary-Treasurer of the Board, and the Secretary-Treasurer shall retain an acknowledgment provided pursuant to this section for 6 years after the date on which the acknowledgment was provided to the Secretary-Treasurer.

Sec. 8. ~~[Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.]~~ *(Deleted by amendment.)*

Sec. 9. ~~*[1. At least 90 days before the beginning of any term of office of a member of the Board, or within 30 days after a position on the Board becomes vacant if it becomes vacant more than 120 days before the beginning of the next term of office for that position, the names of persons*~~

~~*who are qualified for membership on the Board may be submitted to the Legislative Committee on Health Care by:*~~

~~*(a) Any medical society or professional association;*~~

~~*(b) The University of Nevada School of Medicine; and*~~

~~*(c) A member of the public.*~~

~~*2. If fewer than three names are submitted pursuant to subsection 1, the Governor may immediately appoint any qualified person to the position.*~~

~~*3. With respect to the list of persons nominated pursuant to subsection 1, the Legislative Committee on Health Care:*~~

~~*(a) May investigate the character and fitness of the persons nominated to serve on the Board; and*~~

~~*(b) May not remove any name from the list.*~~

~~*4. The Legislative Committee on Health Care may, not later than 60 days after the deadline for the receipt of nominations pursuant to subsection 1, submit to the Governor the list of persons nominated and the results of any investigations conducted pursuant to subsection 3.*~~

~~*5. Except as otherwise provided in subsections 2 and 6, the Governor shall appoint a new member or fill a vacancy from the list of persons nominated pursuant to subsection 1.*~~

~~*6. If the Legislative Committee on Health Care fails to submit the list to the Governor in accordance with subsection 4, the Governor may appoint any qualified person to the position.]*~~ *(Deleted by amendment.)*

Sec. 10. *Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. Each member of the Board shall comply with the provisions of NRS 281A.500.

2. Each member of the Board shall provide a copy of the acknowledgment filed pursuant to NRS 281A.500 to the Executive Director of the Board, and the Executive Director shall retain an acknowledgment provided pursuant to this section for 6 years after the date on which the acknowledgment was provided to the Executive Director.

Sec. 11. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment removes proposed language related to the appointment process for the Boards of Medical Examiners, Homeopathic Medical Examiners and Osteopathic Medical Board. The deleted language would specifically allow certain organizations to submit names of appointees to the Boards for consideration by the Governor. The deleted language would also require the Legislative Committee on Health Care to vet nominees to the Boards.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 460.

"SUMMARY—Authorizes the Department of Corrections to perform random drug and alcohol testing on certain employees. (BDR 23-306)"

"AN ACT relating to state personnel; authorizing the Director of the Department of Corrections to request that certain employees of the Department submit to random drug and alcohol screening tests; *authorizing a state law enforcement agency to establish a substantially similar program of testing;* providing that an employee's refusal to submit to such a screening test may result in his dismissal or in other disciplinary action being taken against him; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, appointing authorities at the state level are prohibited from hiring an applicant for a position of employment that affects the public safety unless the appointing authority first requires the applicant to submit to a screening test to detect the presence of a controlled substance. (NRS 284.4066) Existing law also authorizes such an appointing authority to request that an employee submit to a screening test to detect the presence of alcohol or drugs if: (1) the appointing authority reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently; or (2) the employee has performed certain acts relating to the discharge of a firearm or the operation of a motor vehicle. (NRS 284.4065) The provisions of existing law do not currently authorize an appointing authority at the state level to conduct random screening tests of its employees to detect the presence of alcohol or drugs.

Section ~~[4]~~ *5* of this bill authorizes the Director of the Department of Corrections to request that an employee of the Department who is in a position that may affect public safety or security in the workplace submit to a screening test to detect the presence of alcohol or drugs and allows the Director to select the employee at random for the purpose of such testing. An employee of the Department may refuse to submit to such a screening test, but the refusal may result in his dismissal or in other disciplinary action being taken against him. The Department is required to pay the cost of such testing except for independent testing that an employee may elect to undergo at his own expense. *Section 4 of this bill authorizes any state law enforcement agency to establish a program of testing that is substantially similar to the program of the Department of Corrections described in section 5.*

The United States Supreme Court has held that a program which compels governmental employees to submit to drug screening tests is a "search" within the meaning of the Fourth Amendment of the United States Constitution (see also Nev. Const. Art. 1, § 18) because drug screening invades an employee's reasonable expectation of privacy. (*National Treasury*

Employees Union v. Von Raab, 489 U.S. 656, 665, 109 S. Ct. 1384, 1390 (1989); *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602, 617-18, 109 S. Ct. 1402, 1413 (1989)) However, so long as drug screening serves a special governmental interest beyond the need for law enforcement, the intrusion on an employee's right to privacy is justified without a warrant, probable cause or individualized suspicion. (*Von Raab*, 489 U.S. at 665-66, 109 S. Ct. at 1390-91; *Skinner*, 489 U.S. at 620-21, 109 S. Ct. at 1415) Various courts have upheld the random drug testing of employees which served the government's interest in preserving public and workplace safety in contexts such as the testing of employees who: (1) are correctional officers (*Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989)); (2) work in a nuclear facility (*International Brotherhood of Electrical Workers, Local 1245 v. United States Nuclear Regulatory Commission*, 966 F.2d 521 (9th Cir. 1992)); or (3) are civilian workers of the Navy who had access to classified information (*AFGE Local 1533 v. Cheney*, 944 F.2d 503 (9th Cir. 1993)).

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

Section 1. NRS 284.4063 is hereby amended to read as follows:

284.4063 Except as otherwise provided in ~~*[subsection 5]*~~ *subsections 3 and 6 of section 4 of this act , subsections 3 and 6 of section 5 of this act and* subsection 5 of NRS 284.4065, an employee who:

1. Fails to notify his supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of his duties;

2. Fails or refuses to submit to a screening test as requested by ~~[a]~~ *:*

(a) A state agency pursuant to subsection 1 or 2 of NRS 284.4065; ~~[or]~~

(b) The chief administrator of a state law enforcement agency pursuant to section 4 of this act; or

(c) The Director of the Department of Corrections pursuant to section ~~[4]~~ 5 of this act; or

3. After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by his appointing authority, that he had taken the controlled substance as directed pursuant to a current and lawful prescription issued in his name,

➥ is subject to disciplinary action.

Sec. 2. NRS 284.4065 is hereby amended to read as follows:

284.4065 1. Except as otherwise provided in subsection 2 ~~[,]~~ *and ~~[section]~~ sections 4 and 5 of this act,* an appointing authority may request *that* an employee ~~[to]~~ submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against him; and

(3) That he may refuse the test, but that his refusal may result in his dismissal or in other disciplinary action being taken against him.

2. An appointing authority may request *that* an employee ~~[to]~~ submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of his duties, he discharges a firearm, other than by accident; or

(b) During the performance of his duties, drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.

➥ For the purposes of this subsection, the Commission shall, by regulation, define the term "substantial damage to property."

3. An appointing authority may place an employee who submits to a screening test *pursuant to subsection 1 or 2* on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

Sec. 3. NRS 284.4068 is hereby amended to read as follows:

284.4068 Except as otherwise provided in NRS 239.0115, the results of a screening test taken pursuant to *section 4 or 5 of this act or* NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;

2. Must be securely maintained by the appointing authority or his designated representative separately from other files concerning personnel; and

3. Must not be disclosed to any person, except:

(a) Upon the written consent of the person tested;

(b) As required by medical personnel for the diagnosis or treatment of the person tested ~~[,]~~ if he is physically unable to give his consent to the disclosure;

(c) As required pursuant to a properly issued subpoena;

(d) When relevant in a formal dispute between the appointing authority and the person tested; or

(e) As required for the administration of a plan of benefits for employees.

Sec. 4. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a state law enforcement agency elects to establish a program as described in this section, the chief administrator of the agency may:

(a) Request that an employee of the agency submit to a screening test if the employee is in a position that, as determined in accordance with regulations adopted by the chief administrator, may affect public safety or safety in the workplace; and

(b) Use a method of random selection to determine which such employees of the agency will be subject to a request to submit to a screening test. Any method of random selection so used must be developed or supervised, or both, by the Department of Information Technology to ensure the integrity of the selection process.

2. If a chief administrator requests that an employee submit to a screening test pursuant to this section, the chief administrator shall inform the employee in writing:

(a) Of whether the test will be for alcohol or drugs, or both;

(b) That the results of the test are not admissible in any criminal proceeding against him; and

(c) That he may refuse to submit to the test, but that, except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.

3. An employee of a state law enforcement agency who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the agency; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to and successfully completes an employee assistance program.

4. A chief administrator may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the applicable state law enforcement agency receives the results of the test.

5. A chief administrator shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug,

allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the chief administrator receives those results.

6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the applicable chief administrator fails to comply with the provisions of this section.

7. A chief administrator shall not use a screening test to harass an employee.

8. The provisions of NRS 284.4067 apply to a screening test requested by a chief administrator pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the chief administrator shall ensure that the handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

9. Except as otherwise provided in paragraphs (a) and (b) of subsection 5 and subsection 3 of NRS 284.4067, a state law enforcement agency shall pay for all screening tests conducted pursuant to this section.

10. The provisions of this section do not alter, limit or otherwise affect the duty or authority of a chief administrator or a state law enforcement agency to cause screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.

11. The chief administrator of a state law enforcement agency that elects to establish a program as described in this section:

(a) Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the chief administrator pursuant to subsection 1.

(b) May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.

12. As used in this section:

(a) "Chief administrator" means the executive and administrative head of a state law enforcement agency.

(b) "Screening test" has the meaning ascribed to it in NRS 284.4061.

(c) "State law enforcement agency" means an agency, office or bureau of this State, the primary duty of which is to enforce the law. The term includes, without limitation, the Department of Public Safety.

~~[Sec. 4.]~~ *Sec. 5.* Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may:

(a) Request that an employee of the Department submit to a screening test ~~[,]~~ if the ~~[person]~~ employee is in a position that, as determined in

accordance with regulations adopted by the Director, may affect public safety or safety ~~[of]~~ in the workplace; and

(b) Use a method of random selection to determine which such employees of the Department of Corrections will be subject to a request to submit to a screening test. Any method of random selection so used must be developed or supervised, or both, by the Department of Information Technology to ensure the integrity of the selection process.

2. If the Director requests that an employee submit to a screening test pursuant to this section, the Director shall inform the employee in writing:

(a) Of whether the test will be for alcohol or drugs, or both;

(b) That the results of the test are not admissible in any criminal proceeding against him; and

(c) That he may refuse to submit to the test, but that , except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.

3. An employee of the Department who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the Department; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to and successfully completes an employee assistance program.

4. The Director may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the Department receives the results of the test.

~~[4.]~~ 5. The Director shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the Director receives those results.

~~[5.]~~ 6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the Director fails to comply with the provisions of this section.

~~[6.]~~ 7. The Director shall not use a screening test to harass an employee.

~~[7.]~~ 8. The provisions of NRS 284.4067 apply to a screening test requested by the Director pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the Director shall ensure that the

handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

~~[8.]~~ 9. Except as otherwise provided in paragraphs (a) and (b) of subsection ~~[4]~~ 5 and subsection 3 of NRS 284.4067, the Department shall pay for all screening tests conducted pursuant to this section.

~~[9.]~~ 10. The provisions of this section do not alter, limit or otherwise affect the duty or authority of the Director or the Department to cause screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.

~~[10.]~~ 11. The Director:

(a) Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the Director pursuant to subsection 1.

(b) May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.

~~[11.]~~ 12. As used in this section, "screening test" has the meaning ascribed to it in NRS 284.4061.

~~[Sec. 5.]~~ *Sec. 6.* This act becomes effective on July 1, 2009.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse and Carlton.

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

SENATOR WOODHOUSE:

Amendment No. 460 makes various changes to Senate Bill No. 47 to specify the procedures to be followed for random drug testing within the Department of Corrections. The amendment also allows for exceptions to testing and authorizes other state law enforcement agencies to adopt a similar process.

Specifically, the amendment authorizes any state law enforcement agency to adopt the provisions specified within the bill concerning random drug testing of certain employees.

It specifies that if an employee is selected randomly to submit a sample for the purpose of drug testing, the employee has a one-time option to forgo the test; however, that employee must schedule an appointment with an Employee Assistance Program. Upon confirmation of the employee's attendance and successful completion of the program, no disciplinary action will be taken against the employee.

It provides that for the purpose of randomly selecting an employee, the Department of Corrections will utilize Nevada's Department of Information Technology to ensure the integrity of the selection process, and it requires that the testing and handling of a test sample will be conducted by a reputable corporation that specializes in blood and urine analysis.

The Director of the Department of Corrections and those who had some problems with the initial bill worked together on this amendment, and everyone has agreed to it.

SENATOR CARLTON:

The provisions of the employee refusing to take the drug test and how that would actually impact them stated there was a one-time option. Is there a time period with that? Can anyone walk up to any employee and say that they want that person to take a drug test for no cause, just because they would like them to take it?

SENATOR WOODHOUSE:

The Department of Corrections is to use Nevada's Department of Information Technology to randomly select because we want to ensure the selection process is fair, and the employee organizations were in support of this amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 265.

Bill read second time.

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

Amendment No. 420.

"SUMMARY—Revises provisions relating to the Private Investigator's Licensing Board. (BDR 54-1053)"

"AN ACT relating to the Private Investigator's Licensing Board; revising provisions relating to licenses and registrations issued by the Board; revising provisions governing local regulation of such licensees and registrants; removing certain requirements for security guards and certain exemptions for counties whose population is less than 100,000; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a person who holds a license issued by the Private Investigator's Licensing Board to hire unlicensed employees if they hold a work card issued by the local sheriff. (NRS 648.060) Sections 4-6, 8 and 9 of this bill remove the requirement of obtaining a work card from the local sheriff and instead require an unlicensed employee to be registered with the Board. (NRS 648.060, 648.085, 648.140, 648.158, 648.203) Section 3 of this bill establishes the process and requirements for an application for registration. Section 2 of this bill requires the Board to issue a ~~[temporary]~~ *provisional* registration while the application process is pending. Section 10 of this bill deems any person with an active work card issued before January 1, 2010, to be registered until the work card expires or until January 1, 2015, whichever is earlier.

Section 6 of this bill also removes the authority of certain local governments to regulate certain matters relating to licensees and registrants under chapter 648 of NRS.

Section 9 of this bill also removes: (1) the requirement that a security guard obtain a work card from the applicable sheriff; and (2) the exemption from certain requirements of chapter 648 of NRS for counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties).

Sections 2 and 9 of this bill allow the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to issue a provisional registration or to receive a set of fingerprints from an applicant as a part of the registration process.

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

Section 1. Chapter 648 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. The Board or the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services shall , upon completion and review by the Board or sheriff of a record of criminal history for the applicant pursuant to NRS 179A.070, issue a ~~[temporary]~~ provisional registration to an applicant who ~~[submits]~~ :*

(a) Submits a completed application for registration in compliance with section 3 of this act. ~~[.]~~ ; and

(b) Meets the requirements for registration as adopted by the Board by regulation.

2. A ~~[temporary]~~ provisional registration issued to an applicant by the Board ~~[will expire]~~ or sheriff expires automatically:

(a) If the Board denies the applicant's application;

(b) Upon the issuance of a registration to the applicant; or

(c) If the applicant's check for the fee for the application for registration is returned for insufficient funds.

3. Except as otherwise provided in this section, a ~~[temporary]~~ provisional registration expires 90 days after its date of issuance unless an extension is granted by the Executive Director of the Board for good cause.

Sec. 3. *1. To obtain a registration, a person must:*

(a) Be a natural person;

(b) File a written application for registration with the Board;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Board of not more than $135.

2. An application for registration must include:

(a) A fully completed application for registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for ~~[two sets of]~~ electronically submitted fingerprints of the applicant submitted as required by the Board; and

(d) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Board shall issue a registration to an applicant if:

(a) The application is verified by the Board and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Is of good moral character and temperate habits;

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon;

(3) Has not made a false statement of material fact on his application; and

(4) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Board.

4. Upon the issuance of a registration, a pocket card of such size, design and content as may be determined by the Board will be issued without charge to each registered person, and will be evidence that the person is duly registered pursuant to this chapter.

5. A registration issued pursuant to this section and the cards issued pursuant to subsection 4 expire 5 years after the date the registration is issued, unless it is renewed. To renew a registration, the holder of the registration must submit to the Board on or before the date the registration expires:

(a) A fully completed application for renewal of registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for ~~[two sets of]~~ electronically submitted fingerprints of the applicant submitted as required by the Board;

(d) A renewal fee set by the Board of not more than $135; and

(e) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

6. A denial of registration may be appealed to the Board. The Board shall adopt regulations providing for the consideration of such appeals.

Sec. 4. NRS 648.060 is hereby amended to read as follows:

648.060 1. Except as otherwise provided in NRS 253.220, no person may:

(a) Engage in the business of private investigator, private patrolman, process server, repossessor, dog handler, security consultant, or polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

➥ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person ~~[holds a work card issued by the sheriff of the county in which the work is to be performed.]~~ *is registered pursuant to this chapter.* The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.

(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

(e) Is registered pursuant to this chapter.

Sec. 5. NRS 648.085 is hereby amended to read as follows:

648.085 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a license or ~~[work card]~~ *registration* issued pursuant to this chapter shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a license or ~~[work card]~~ *registration* issued pursuant to this chapter shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license or ~~[work card;]~~ *registration;* or

(b) A separate form prescribed by the Board.

3. A license or ~~[work card]~~ *registration* may not be issued or renewed by the Board pursuant to this chapter if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 6. NRS 648.140 is hereby amended to read as follows:

648.140 1. Any license obtained pursuant to the provisions of this chapter gives the licensee or any bona fide employee of the licensee authority to engage in the type of business for which he is licensed in any county or city in the State of Nevada. A county or city shall not enact ordinances regulating persons licensed pursuant to this chapter, except ~~[:~~

~~(a) Ordinances regulating the employer-employee relationship of licensees and their unlicensed employees; and~~

~~(b) General]~~ *general* business regulations designed to raise revenue or assure compliance with building codes and ordinances or regulations concerning zoning and safety from fire.

2. Except for polygraphic examiners and interns, a licensee may employ, in connection with his business, as many ~~[unlicensed]~~ persons *registered pursuant to this chapter* as may be necessary, but at all times every licensee is accountable for the good conduct of every person employed by him in connection with his business. Each licensee shall furnish the Board with the information requested by it concerning all ~~[unlicensed]~~ employees ~~[,]~~ *registered pursuant to this chapter,* except clerical personnel, and shall notify the Board within ~~[10]~~ *3* days after such employees begin ~~[or terminate]~~ their employment.

~~[3. The Board may by regulation require that a licensee pay registration fees for each of his unlicensed employees, except clerical employees, and impose such terms and conditions in connection with those fees as it deems appropriate. The registration fee must not exceed $10 for each unlicensed employee.~~

~~4. Each licensee shall report quarterly on forms provided by the Board the name of each unlicensed employee employed by him at the time of the report and the name of each unlicensed employee who has left his employ since the date of the last quarterly report. The report required by this subsection is in addition to the reports required by subsection 2.]~~

Sec. 7. NRS 648.144 is hereby amended to read as follows:

648.144 A license issued under the provisions of this chapter and the cards issued pursuant to NRS 648.142 expire on June 30 of each year ~~[.]~~ *unless they are renewed.* A licensee desiring a renewal of his license must file an application for renewal on or before June 30 on a form prescribed by the Board which is accompanied by the fee prescribed pursuant to NRS 648.120 and all information required to complete the application for renewal. A renewal license for the next ensuing year must then be issued together with renewal cards for the persons described in subsection 3 of NRS 648.142.

Sec. 8. NRS 648.158 is hereby amended to read as follows:

648.158 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license or ~~[work card]~~ *registration* issued pursuant to this chapter, the Board shall deem the license or ~~[work card]~~ *registration* issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license or ~~[work card]~~ *registration* by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license or ~~[work card]~~ *registration* has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or ~~[work card]~~ *registration* issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or ~~[work card]~~ *registration* was suspended stating that the person whose license or ~~[work card]~~ *registration* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 9. NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in ~~[subsection 2 or]~~ NRS 253.220, it is unlawful for a person to ~~[:~~

~~(a) Allow]~~ *allow* an employee ~~[, including an independent contractor,]~~ to perform any work regulated pursuant to the provisions of this chapter unless the employee ~~[holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed.]~~ *is registered pursuant to this chapter*. The provisions of this ~~[paragraph]~~ *subsection* do not apply to a person licensed pursuant to this chapter.

~~[(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.]~~

2. ~~[The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.~~

~~3.]~~ The ~~[sheriff of any county in which such restrictions apply]~~ *Board* shall require any person applying for ~~[such a work card]~~ *registration pursuant to this chapter* to submit a complete set of his fingerprints *or a receipt for electronically submitted fingerprints* to the ~~[sheriff]~~ *Board* ~~[,]~~ *or to the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services,* who ~~[may]~~ *shall* forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Sec. 10. Any person who holds an active work card issued before January 1, 2010, will be deemed to be registered pursuant to chapter 648 of NRS. Notwithstanding the amendatory provisions of this act to the contrary, any such registration pursuant to this section expires on the date that the work card expires or January 1, 2015, whichever is earlier.

Sec. 11. This act becomes effective on January 1, 2010.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment modifies a proposed temporary license and instead changes it to a provisional license. The terminology matters if they try to revoke the license.

The amendment also allows the sheriff of a county with a population of 100,000 or more who has entered into an agreement with the Private Investigators' Licensing Board to take certain actions related to the registration or licensing process with the Board.

Currently, in the larger counties, the sheriffs' departments have provisions to do the fingerprinting and licensing for these particular employees. This would allow them to enter into a "memo of understanding" with the state boards so that someone who would want to get a license could have a license that would apply throughout the whole State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 268.

Bill read second time.

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

Amendment No. 421.

"SUMMARY—Makes various changes to provisions governing occupational licensing boards. (BDR 54-161)"

"AN ACT relating to professions; allowing regulatory bodies to share information with each other *and with the Health Division of the Department of Health and Human Services* for reasons of public health; *allowing regulatory bodies and the Health Division to conduct joint investigations in certain circumstances;* requiring certain qualifications of members of regulatory bodies who are not licensed pursuant to the authority of the body on which they serve; exempting community service performed as a result of disciplinary action from limited immunity to civil liability for rendering gratuitous care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill: (1) allows a regulatory body to share information with other regulatory bodies *and the Health Division of the Department of Health and Human Services* relating to public health concerns ~~[,]~~ *if the confidentiality of any shared information is maintained;* and (2) ~~[requires regulatory bodies to otherwise maintain confidentiality of any information shared.]~~ *allows a regulatory body and the Health Division to agree to conduct a joint investigation.*

Section 3 of this bill establishes certain requirements for any member of a regulatory body who is not himself a licensee of that regulatory body.

Section 4 of this bill exempts from protection under the Good Samaritan statutes any person who is performing community service as a result of disciplinary action by any regulatory body.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Any regulatory body may share information in its possession relating to public health concerns with any other regulatory body ~~[.]~~ and with the Health Division of the Department of Health and Human Services, if the confidentiality of the information is otherwise maintained in accordance with the terms and conditions required by law.*

2. Any regulatory body may conduct a joint investigation with the Health Division if either of them so requests and the regulatory body and the Health Division agree that each of them will benefit from conducting a joint investigation.

Sec. 3. *A member of a regulatory body who is not a licensee of the regulatory body of which he is a member:*

1. Shall reside in this State;

2. Must be a person of recognized ability and integrity;

3. Shall not have substantial personal or financial interests in the practice of any occupation or profession that the regulatory body has the authority to regulate or in any organization regulated by that regulatory body;

4. Shall not have an immediate relative who has substantial personal or financial interests in the practice of any occupation or profession that the regulatory body has the authority to regulate or in any organization regulated by that regulatory body;

5. Shall not be an officer, board member or employee of a statewide or national organization established for the purpose of advocating the interests of or conducting peer review of licensees of the regulatory body on which he serves; and

6. Must not be a registered lobbyist representing any interest or association relating to the practice of any occupation or profession that the regulatory body has the authority to regulate.

Sec. 4. NRS 41.500 is hereby amended to read as follows:

41.500 1. Except as otherwise provided in NRS 41.505, any person in this State who renders emergency care or assistance in an emergency, gratuitously and in good faith, *except for a person who is performing community service as a result of disciplinary action pursuant to any provision in title 54 of NRS,* is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance or as a result of any act or failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured person.

2. Any person in this State who acts as a driver of an ambulance or attendant on an ambulance operated by a volunteer service or as a volunteer driver or attendant on an ambulance operated by a political subdivision of this State, or owned by the Federal Government and operated by a contractor of the Federal Government, and who in good faith renders emergency care or assistance to any injured or ill person, whether at the scene of an emergency or while transporting an injured or ill person to or from any clinic, doctor's office or other medical facility, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance, or as a result of any act or failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person.

3. Any appointed member of a volunteer service operating an ambulance or an appointed volunteer serving on an ambulance operated by a political subdivision of this State, other than a driver or attendant, of an ambulance, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him whenever he is performing his duties in good faith.

4. Any person who is a member of a search and rescue organization in this State under the direct supervision of any county sheriff who in good faith renders care or assistance in an emergency to any injured or ill person, whether at the scene of an emergency or while transporting an injured or ill person to or from any clinic, doctor's office or other medical facility, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance, or as a result of any act or failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person.

5. Any person who is employed by or serves as a volunteer for a public fire-fighting agency and who is authorized pursuant to chapter 450B of NRS to render emergency medical care at the scene of an emergency is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care or as a result of any act or failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person.

6. Any person who:

(a) Has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American National Red Cross or American Heart Association;

(b) Has successfully completed the training requirements of a course in basic emergency care of a person in cardiac arrest conducted in accordance with the standards of the American Heart Association; or

(c) Is directed by the instructions of a dispatcher for an ambulance, air ambulance or other agency that provides emergency medical services before its arrival at the scene of the emergency,

➥ and who in good faith renders cardiopulmonary resuscitation in accordance with his training or the direction, other than in the course of his regular employment or profession, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care.

7. For the purposes of subsection 6, a person who:

(a) Is required to be certified in the administration of cardiopulmonary resuscitation pursuant to NRS 391.092; and

(b) In good faith renders cardiopulmonary resuscitation on the property of a public school or in connection with a transportation of pupils to or from a public school or while on activities that are part of the program of a public school,

➥ shall be presumed to have acted other than in the course of his regular employment or profession.

8. Any person who gratuitously and in good faith renders emergency medical care involving the use of an automated external defibrillator is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care.

9. A business or organization that has placed an automated external defibrillator for use on its premises is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by the person rendering such care or for providing the automated external defibrillator to the person for the purpose of rendering such care if the business or organization:

(a) Complies with all current federal and state regulations governing the use and placement of an automated external defibrillator;

(b) Ensures that the automated external defibrillator is maintained and tested according to the operational guidelines established by the manufacturer; and

(c) Establishes requirements for the notification of emergency medical assistance and guidelines for the maintenance of the equipment.

10. As used in this section, "gratuitously" means that the person receiving care or assistance is not required or expected to pay any compensation or other remuneration for receiving the care or assistance.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment allows regulatory boards to share information with the Health Division of the Department of Health and Human Services. The amendment also allows regulatory boards to conduct joint investigations with the Health Division under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 335.

Bill read second time.

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

Amendment No. 322.

"SUMMARY—Revises provisions regarding regulation of accountants. (BDR 54-191)"

"AN ACT relating to accountants; revising provisions governing registration of and professional accounting services provided by partnerships, corporations , ~~[and]~~ limited-liability companies ~~[,]~~ *and sole proprietorships;* providing for practice privileges to be granted to certain persons not licensed in this State under certain circumstances; revising provisions governing

competency requirements, discipline, licensing requirements and retention of documents; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 4, 14-21, 26, 28 and 30-34 of this bill revise provisions governing the registration of domestic and foreign partnerships, corporations *, ~~[and]~~* limited-liability companies *and sole proprietorships* performing professional accounting services in this State to require registration under certain circumstances and to specify certain services which may be performed without registration under certain circumstances, as well as revise related provisions governing such practice.

Sections 5, 9, 27, 29 and 31-35 of this bill set forth the conditions under which a natural person who holds a valid license as a certified public accountant in another state shall be deemed to be granted the practice privileges of a certified public accountant in this State and revise related provisions governing such practice.

Section 6 of this bill establishes the competency requirements which must be met by a person who signs or authorizes another to sign an accountant's report on financial statements.

Sections 10 and 22 of this bill revise the authority of the Nevada State Board of Accountancy to revoke or refuse to grant a certificate, a permit or practice privileges of a certified public accountant.

Sections 11-13 of this bill authorize the Board to use all or any part of a certain provider's examination and grading service and to prescribe by regulation the education required for an applicant's eligibility to take that examination.

Section 23 of this bill revises provisions relating to the Board's conduct of disciplinary proceedings.

Sections 24 and 25 of this bill revise provisions relating to the retention of documents associated with the rendering of certain professional services.

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

Section 1. Chapter 628 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Compilation" means the presentation, in the form of financial statements prepared in accordance with the Statements on Standards for Accounting and Review Services (SSARS) published by the American Institute of Certified Public Accountants, of information that is a representation by the owner or management of an entity without undertaking to state or imply assurance of the reliability of the information.*

Sec. 3. *"Home office" means the location specified by a client of an accountant as the address of an entity for which the accountant practices public accounting, performs an attestation or compilation ~~[is performed.]~~ or performs other professional services within the practice of public accounting.*

Sec. 4. *1. The Board shall grant or renew registration to a partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship that demonstrates its qualifications therefor in accordance with this chapter.*

2. A partnership, corporation or limited-liability company with an office in this State shall register with the Board if the partnership, corporation or limited-liability company:

(a) Performs attest services;

(b) Performs compilation services;

(c) Is engaged in the practice of public accounting; or

(d) Is styled and known as a certified public accountant or uses the abbreviation "C.P.A."

3. A partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship that does not have an office in this State:

(a) Shall register with the Board if the partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship performs attest services for a client having his home office in this State.

(b) May practice public accounting, may perform compilation services or other professional services within the practice of public accounting other than attest services for a client having his home office in this State, may be styled and known as a certified public accountant and may use the title or designation "certified public accountant" and the abbreviation "C.P.A." without registering with the Board if:

(1) ~~[The]~~ Persons who are certified public accountants in any state constitute a simple majority, in terms of financial interests and voting rights of all partners, shareholders, officers, members and principals thereof, of the ownership of the partnership, corporation, limited-liability company or sole proprietorship;

(2) The partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship complies with the provisions of ~~[subsections 4 and]~~ subsection 5 of NRS 628.325 ~~[; and]~~ , if applicable;

~~[(2)]~~ (3) A natural person granted practice privileges pursuant to section 5 of this act practices such public accounting or performs such ~~[attest or]~~ compilation services or such other professional services within the practice of public accounting for the client having his home office in this State ~~[.~~

~~(c) May perform professional services within the practice of public accounting other than attest services and may use the title or designation "certified public accountant" and the abbreviation "C.P.A." without registering with the Board if:~~

~~(1) A natural person granted practice privileges pursuant to section 5 of this act practices such public accounting; and~~

~~(2)]~~ ; and

(4) The partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship can lawfully perform such services in the state where the

natural person described in subparagraph ~~[(1)]~~ (3) has his principal place of business.

4. A natural person granted practice privileges pursuant to section 5 of this act must not be required to obtain a permit from this State pursuant to NRS 628.380 if he performs such professional services for:

(a) Which a partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship is required to register pursuant to subsection 2 ~~[,]~~ or 3; or

(b) A partnership, corporation or limited-liability company registered pursuant to the provisions of NRS 628.325.

Sec. 5. *1. Except as otherwise provided in this chapter, a natural person who holds a valid license as a certified public accountant from any state other than this State shall be deemed to be a certified public accountant for all purposes under the laws of this State other than this chapter.*

2. A natural person granted practice privileges pursuant to subsection 1 is not required to obtain:

(a) A certificate pursuant to NRS 628.190; or

(b) A permit pursuant to NRS 628.380.

3. A natural person granted practice privileges pursuant to subsection 1 and a partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship that employs such a person shall be deemed to consent, as a condition of the grant of such practice privileges:

(a) To the personal and subject matter jurisdiction, and disciplinary authority, of the Board.

(b) To comply with the provisions of this chapter and the regulations of the Board.

(c) That, in the event that the license from the state wherein the natural person's principal place of business is located becomes invalid, the natural person will cease offering or engaging in the practice of professional accounting in this State individually and on behalf of a partnership, corporation , ~~[or]~~ limited-liability company ~~[,]~~ or sole proprietorship.

(d) To the appointment of the state board that issued the license as the agent upon whom process may be served in any investigation, action or proceeding relating to the natural person or the partnership, corporation , ~~[or]~~ limited-liability company or sole proprietorship by the Board.

4. A natural person granted practice privileges pursuant to subsection 1 may perform attest services for a client having his home office in this State only if the partnership, corporation, limited-liability company or sole proprietorship that employs the person is registered pursuant to section 4 of this act.

Sec. 6. *A person who, on his own behalf or on behalf of a partnership, corporation , ~~[or]~~ limited-liability company ~~[,]~~ or sole proprietorship, signs or authorizes another to sign an accountant's report on financial statements shall meet the requirements for competency as set forth in the professional standards of accounting.*

Sec. 7. NRS 628.003 is hereby amended to read as follows:

628.003 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 628.005 to 628.033, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 628.005 is hereby amended to read as follows:

628.005 "Attest," "attesting" and "attestation" mean the issuance of opinions, reports or other documents which state or imply assurance of the reliability of ~~[any financial]~~ information when the opinions, reports or other documents are accompanied by or contain any name, title or wording which ~~[indicate]~~ *indicates* that the person or other entity which has issued them is an accountant or auditor, or has expert knowledge in accounting or auditing. The terms include any disclaimer of an opinion when the disclaimer is in a form which is understood to imply any positive assurance of the reliability of the information and expertise on the part of the person making the disclaimer.

Sec. 9. NRS 628.023 is hereby amended to read as follows:

628.023 "Practice of public accounting" means the offering to perform or the performance by a holder of a live permit ~~[,]~~ *or a natural person granted practice privileges pursuant to section 5 of this act,* for a client or potential client, of one or more services involving the use of skills in accounting or auditing, one or more services relating to advising or consulting with clients on matters relating to management or the preparation of tax returns and the furnishing of advice on matters relating to taxes.

Sec. 10. NRS 628.190 is hereby amended to read as follows:

628.190 1. Except as otherwise provided in this section and NRS 628.310, a certificate of certified public accountant must be granted by the Board to any person who:

(a) Is a resident of this State or, if not a resident, has designated to the Board an agent who is a resident for notification and service of process;

(b) Is a person who is without any history of acts involving dishonesty or moral turpitude;

(c) Complies with the requirements of education and experience as provided in NRS 628.200;

(d) Has submitted to the Board a complete set of his fingerprints and written permission authorizing the Board 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; and

(e) Has passed the examination prescribed by the Board.

2. The Board may refuse to grant a certificate of certified public accountant to an applicant if he has been convicted of a felony ~~[relating to the practice of a certified public accountant under the laws of any state or of the United States.]~~ *in this State or an offense in another state or jurisdiction which would be a felony if committed in this State.*

3. The Board may issue a provisional certificate to an applicant until the Board receives the report from the Federal Bureau of Investigation.

Sec. 11. NRS 628.200 is hereby amended to read as follows:

628.200 1. Except as otherwise provided in subsection 4, the ~~[requirement]~~ *requirements* of education for a certificate of certified public accountant ~~[is at]~~ *are:*

(a) At least 150 semester hours or an equivalent number of quarter hours *;* and ~~[includes a]~~

(b) A baccalaureate degree or an equivalent degree from a college or university recognized by the Board:

~~[(a)]~~ *(1)* With a major in accounting, or what the Board determines to be substantially the equivalent of a major in accounting; or

~~[(b)]~~ *(2)* With a major other than accounting supplemented by what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration.

2. The requirement for experience for a certificate of certified public accountant is:

(a) Two years of public accounting experience in a partnership, corporation, limited-liability company or sole proprietorship engaged in the practice of public accounting under the direct supervision of a person who is a certified public accountant; or

(b) Experience in internal auditing work or governmental accounting and auditing work of a character and for a length of time sufficient in the opinion of the Board to be substantially equivalent to the requirements of paragraph (a).

3. The Board:

(a) Shall adopt regulations concerning:

(1) The number of semester hours or an equivalent number of quarter hours in accounting and other courses required by an applicant to satisfy the requirements of subsection 1.

(2) The public accounting experience, internal auditing work, and governmental accounting and auditing work required by an applicant to satisfy the requirements of subsection 2.

(b) May provide by regulation for the substitution of qualified programs of continuing education to satisfy partially the requirement of experience described in paragraph (b) of subsection 2 or may add any program to the requirement of experience.

4. Notwithstanding any provision of this section to the contrary, an applicant for a certificate of certified public accountant who has received conditional credit pursuant to NRS 628.260 for passing a section of the examination required for a certificate, and who applies that credit to his subsequent passage of the examination, is subject to the educational requirements to receive a certificate that were in effect on the date on which he first received the conditional credit.

Sec. 12. NRS 628.230 is hereby amended to read as follows:

628.230 *1.* The Board shall prescribe by regulation the ~~[methods]~~ *:*

(a) Methods of applying for ~~[and]~~ *an examination;*

(b) Methods of completing an examination, including grading and the requirements to pass the examination ~~[.]~~ *; and*

(c) Education required to be eligible to take an examination.

2. The Board may use ~~[all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants as it deems appropriate to assist it in performing its duties hereunder.]~~ *an examination from any provider as approved by the Board.*

Sec. 13. NRS 628.240 is hereby amended to read as follows:

628.240 A candidate for a certificate of certified public accountant ~~[,]~~ who has met the educational requirements as ~~[provided in NRS 628.200,]~~ *prescribed by the Board pursuant to NRS 628.230* is eligible to take the examination without waiting until he meets the requirements of experience if he also meets the requirements of paragraphs (a) and (b) of subsection 1 of NRS 628.190.

Sec. 14. NRS 628.340 is hereby amended to read as follows:

628.340 1. A partnership ~~[engaged in this State in the practice of public accounting shall]~~ *required to* register with the Board ~~[as a partnership of certified public accountants and]~~ *pursuant to section 4 of this act must* meet the following requirements:

(a) At least one general partner must be *either* a certified public accountant of this State in good standing ~~[.]~~ *or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(b) Each partner who is a resident of this State and is personally and regularly engaged within this State in the practice of public accounting as a member thereof *, or whose principal place of business is in this State and who is engaged in the practice of professional accounting in this State,* must be a certified public accountant of this State in good standing.

(c) Each partner who *is* personally ~~[engages]~~ *and regularly engaged* in the practice of public accounting in this State ~~[and who is not a resident of this State and is not regularly employed in an office of the firm in this State]~~ must be *either* a certified public accountant *of this State* in good standing ~~[of some state]~~ or ~~[a jurisdiction of the United States approved by the Board by regulation.]~~ *, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(d) Each partner who is regularly engaged in the practice of public accounting within the United States must be a certified public accountant in good standing of some state or jurisdiction of the United States . ~~[approved by the Board by regulation.]~~

(e) Each manager in charge of an office of the ~~[firm]~~ *partnership* in this State must be *either* a certified public accountant of this State in good

standing ~~[.]~~ *or a natural person granted practice privileges pursuant to section 5 of this act.*

(f) A corporation or limited-liability company which is registered pursuant to NRS 628.343 or 628.345 may be a partner, and a partnership which is registered pursuant to this section may be a general partner, in a partnership engaged in the practice of public accounting.

2. Application for registration must be made upon the affidavit of *either* a general partner who holds a live permit to practice in this State as a certified public accountant ~~[.]~~ *or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.* The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A partnership which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its partnership name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a partner from any partnership so registered.

Sec. 15. NRS 628.343 is hereby amended to read as follows:

628.343 1. A corporation ~~[organized for the practice of public accounting shall]~~ *required to* register with the Board ~~[as a corporation of certified public accountants and]~~ *pursuant to section 4 of this act shall* comply with the following requirements:

(a) The sole purpose and business of the corporation must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the corporation may invest its money in a manner not incompatible with the practice of public accounting.

(b) The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation must be a certified public accountant of some state in good standing.

(c) At least one shareholder of the corporation must be *either* a certified public accountant of this State in good standing ~~[.]~~ *or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(d) Each manager in charge of an office of the corporation in this State and each shareholder or director who is regularly and personally engaged within this State in the practice of public accounting must be *either* a certified public accountant of this State in good standing ~~[.]~~ *or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there must be a written agreement binding the shareholders or the corporation to purchase any shares offered for sale by,

or not under the ownership or effective control of, a qualified shareholder. The corporation may retire any amount of stock for this purpose, notwithstanding any impairment of its capital, so long as one share remains outstanding.

(f) The corporation shall comply with other regulations pertaining to corporations practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of *either* a shareholder who holds a live permit to practice in this State as a certified public accountant ~~[.]~~ *or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.* The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A corporation which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its corporate name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a shareholder from any corporation so registered.

Sec. 16. NRS 628.345 is hereby amended to read as follows:

628.345 1. A limited-liability company ~~[organized for the practice of public accounting shall]~~ *required to* register with the Board ~~[as a limited-liability company of certified public accountants and]~~ *pursuant to section 4 of this act shall* comply with the following requirements:

(a) The sole purpose and business of the limited-liability company must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the limited-liability company may invest its money in a manner not incompatible with the practice of public accounting.

(b) The manager, if any, of the limited-liability company must be a certified public accountant of some state in good standing.

(c) At least one member of the limited-liability company must be *either* a certified public accountant of this State in good standing ~~[.]~~ *or, if the limited-liability company is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(d) Each person in charge of an office of the limited-liability company in this State and each member who is regularly and personally engaged within this State in the practice of public accounting must be *either* a certified public accountant of this State in good standing ~~[.]~~ *or, if the limited-liability company is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, a natural person granted practice privileges pursuant to section 5 of this act.*

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of interests, there must be a written agreement binding the members or the limited-liability company to purchase any

interest offered for sale by, or not under the ownership or effective control of, a qualified member.

(f) The limited-liability company shall comply with other regulations pertaining to limited-liability companies practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of the manager or a member of the limited-liability company. The affiant must hold a live permit to practice in this State as a certified public accountant ~~[.]~~ *or, if the limited-liability company is required to register pursuant to paragraph (a) of subsection 3 of section 4 of this act, be a natural person granted practice privileges pursuant to section 5 of this act.* The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A limited-liability company which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a member from any limited-liability company so registered.

Sec. 17. NRS 628.360 is hereby amended to read as follows:

628.360 1. ~~[A]~~ *Unless exempt from registration pursuant to section 4 of this act, a* partnership engaged in this State in the practice of public accounting shall register with the Board as a partnership of public accountants and meet the following requirements:

(a) At least one general partner thereof must be a certified public accountant or a registered public accountant of this State in good standing.

(b) Each partner thereof personally and regularly engaged within this State in the practice of public accounting as a member thereof must be a certified public accountant or a registered public accountant of this State in good standing.

(c) Each manager in charge of an office of the firm in this State must be a certified public accountant or a registered public accountant of this State in good standing.

(d) A corporation or limited-liability company which is registered pursuant to NRS 628.363 or 628.365 may be a partner, and a partnership which is registered pursuant to this section may be a general partner, in a partnership engaged in the practice of public accounting.

2. Application for registration must be made upon the affidavit of a general partner who holds a live permit to practice in this State as a certified public accountant or as a registered public accountant. The Board shall determine whether the applicant is eligible for registration. The Board may charge a registration fee and renewal fee and a reporting fee in an amount set by regulation. A partnership which is so registered may use the words "public accountants" in connection with its partnership name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a partner from any partnership so registered.

Sec. 18. NRS 628.363 is hereby amended to read as follows:

628.363 1. ~~[A]~~ *Unless exempt from registration pursuant to section 4 of this act, a* corporation organized for the practice of public accounting shall register with the Board as a corporation of public accountants and comply with the following requirements:

(a) The sole purpose and business of the corporation must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the corporation may invest its money in a manner not incompatible with the practice of public accounting.

(b) The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation must be a certified public accountant or *a* registered public accountant of this State in good standing.

(c) Each manager in charge of an office of the corporation in this State must be a certified public accountant or a registered public accountant of this State in good standing.

(d) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there must be a written agreement binding the shareholders or the corporation to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder. The corporation may retire any amount of stock for this purpose, notwithstanding any impairment of its capital, so long as one share remains outstanding.

(e) The corporation shall comply with other regulations pertaining to corporations practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of a shareholder who holds a live permit to practice in this State as a certified public accountant or as a registered public accountant. The Board shall determine whether the applicant is eligible for registration. The Board may charge a registration fee and renewal fee and a reporting fee in an amount set by regulation. A corporation which is so registered may use the words "public accountants" in connection with its corporate name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a shareholder from any corporation so registered.

Sec. 19. NRS 628.365 is hereby amended to read as follows:

628.365 1. ~~[A]~~ *Unless exempt from registration pursuant to section 4 of this act, a* limited-liability company organized for the practice of public accounting shall register with the Board as a limited-liability company of public accountants and comply with the following requirements:

(a) The sole purpose and business of the limited-liability company must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the limited-liability company may invest its money in a manner not incompatible with the practice of public accounting.

(b) The manager, if any, of the limited-liability company must be a certified public accountant or *a* registered public accountant of this State in good standing.

(c) Each person in charge of an office of the limited-liability company in this State must be a certified public accountant or a registered public accountant of this State in good standing.

(d) In order to facilitate compliance with the provisions of this section relating to the ownership of interests, there must be a written agreement binding the members or the limited-liability company to purchase any interest offered for sale by, or not under the ownership or effective control of, a qualified member.

(e) The limited-liability company shall comply with other regulations pertaining to limited-liability companies practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of the manager or a member of the limited-liability company. The affiant must hold a live permit to practice in this State as a certified public accountant or as a registered public accountant. The Board shall determine whether the applicant is eligible for registration. The Board may charge a registration fee and renewal fee and a reporting fee in an amount set by regulation. A limited-liability company which is so registered may use the words "public accountants" in connection with its name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a member of a limited-liability company so registered.

Sec. 20. NRS 628.370 is hereby amended to read as follows:

628.370 1. Each office established or maintained in this State for the practice of public accounting in this State by a certified public accountant or a partnership, corporation or limited-liability company composed of certified public accountants, or by a registered public accountant or a partnership, corporation or limited-liability company composed of registered public accountants, must be registered annually under this chapter with the Board. The Board may charge a fee for the registration of an office in an amount set by regulation.

2. ~~[Each office must be under the supervision of a manager, who may be a partner, shareholder, member or employee holding a certificate and a live permit.~~

~~3.]~~ The Board shall by regulation prescribe the procedure to be followed in registering offices.

Sec. 21. NRS 628.375 is hereby amended to read as follows:

628.375 1. Before a certified public accountant ~~[or]~~ , *a* registered public accountant ~~*[, a natural person granted practice privileges pursuant to section 5 of this act]*~~ or a partnership, corporation or limited-liability company composed of certified public accountants ~~*[,]*~~ or registered public accountants ~~*[or natural persons granted practice privileges pursuant to section 5 of this act]*~~ *with an office in this State* engages in the practice of

public accounting in this State under a fictitious name, ~~[it]~~ *the person or entity* must register the fictitious name with the Board.

2. The Board shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that prescribe:

(a) The procedure for registering a fictitious name with the Board; and

(b) The fee for registering a fictitious name with the Board.

Sec. 22. NRS 628.390 is hereby amended to read as follows:

628.390 1. After giving notice and conducting a hearing, the Board may revoke, or may suspend for a period of not more than 5 years, any certificate issued under NRS 628.190 to 628.310, inclusive, *any practice privileges granted pursuant to section 4 or 5 of this act,* any registration or license granted to a registered public accountant under NRS 628.350, or any registration of a partnership, corporation, limited-liability company *, sole proprietorship* or office, or may revoke, suspend or refuse to renew any permit issued under NRS 628.380, or may publicly censure the holder of any permit, *license or registration or any natural person granted practice privileges pursuant to section 5 of this act,* for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as a certified public accountant, or in obtaining registration or a license as a public accountant under this chapter ~~[,]~~ or in obtaining a permit to practice public accounting under this chapter.

(b) Dishonesty, fraud or gross negligence by a certified or registered public accountant ~~[in the practice of public accounting or, if not in the practice of public accounting, of a kind which adversely affects the ability to perform public accounting.]~~ *or a natural person granted practice privileges pursuant to section 5 of this act.*

(c) Violation of any of the provisions of this chapter.

(d) Violation of a regulation or rule of professional conduct adopted by the Board under the authority granted by this chapter.

(e) Conviction of a felony *relating to the practice of public accounting* under the laws of any state or ~~[of the United States relating to the practice of public accounting.]~~ *jurisdiction.*

(f) Conviction of any crime ~~[, an]~~ *:*

(1) An element of which is dishonesty or fraud ~~[,]~~ *; or*

(2) Involving moral turpitude,

➥ under the laws of any state or ~~[of the United States.]~~ *jurisdiction.*

(g) Cancellation, revocation, suspension *, placing on probation* or refusal to renew authority to practice as a certified public accountant or a registered public accountant by any other state, for any cause other than failure to pay an annual registration fee or to comply with requirements for continuing education or review of his practice in the other state.

(h) Suspension *,* ~~[or]~~ revocation *or placing on probation* of the right to practice before any state or federal agency.

(i) Unless the person has been placed on inactive or retired status, failure to obtain an annual permit under NRS 628.380, within:

(1) Sixty days after the expiration date of the permit to practice last obtained or renewed by the holder of a certificate or registrant; or

(2) Sixty days after the date upon which the holder of a certificate or registrant was granted his certificate or registration, if no permit was ever issued to him, unless the failure has been excused by the Board.

(j) Conduct discreditable to the profession of public accounting or which reflects adversely upon the fitness of the person to engage in the practice of public accounting.

(k) Making a false or misleading statement in support of an application for a certificate, registration or permit of another person.

(l) Committing an act in another state or jurisdiction which would be subject to discipline in that state.

2. After giving notice and conducting a hearing, the Board may deny an application to take the examination prescribed by the Board pursuant to NRS 628.190, deny a person admission to such an examination, invalidate a grade received for such an examination or deny an application for a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, to a person who has:

(a) Made any false or fraudulent statement, or any misleading statement or omission relating to a material fact in an application:

(1) To take the examination prescribed by the Board pursuant to NRS 628.190; or

(2) For a certificate issued pursuant to NRS 628.190 to 628.310, inclusive;

(b) Cheated on an examination prescribed by the Board pursuant to NRS 628.190 or any such examination taken in another state or jurisdiction of the United States;

(c) Aided, abetted or conspired with any person in a violation of the provisions of paragraph (a) or (b); or

(d) Committed any combination of the acts set forth in paragraphs (a), (b) and (c).

3. In addition to other penalties prescribed by this section, the Board may impose a civil penalty of not more than $5,000 for each violation of this section.

4. The Board shall not privately censure the holder of any permit, license , ~~[or]~~ certificate ~~[of]~~ *or* registration ~~[.]~~ *or any natural person granted practice privileges pursuant to section 5 of this act.*

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 23. NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter ~~[either on]~~ *:*

(a) On its own motion ~~[or on]~~ *;*

(b) On the complaint of any person ~~[.]~~ *; or*

(c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against him and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his behalf.

4. At any hearing , a respondent may be represented before the Board by counsel or by a certified public accountant or registered public accountant of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena , the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,

➥ unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the Governor must appoint one or more qualified persons so that the panel which hears or reviews the case consists of at least three persons.

7. A stenographic record of the hearing must be kept and a transcript thereof filed with the Board.

8. At all hearings , the Attorney General or one of his deputies designated by him or such other legal counsel as may be employed shall appear and represent the Board.

9. The decision of the Board must be by majority vote thereof.

Sec. 24. NRS 628.430 is hereby amended to read as follows:

628.430 All statements, records, schedules, working papers and memoranda made by a certified public accountant , ~~[or]~~ a registered public accountant *or a natural person granted practice privileges pursuant to*

section 5 of this act incident to or in the course of professional service to clients by the accountant, except reports submitted by a certified public accountant , ~~[or]~~ a registered public accountant *or a natural person granted practice privileges pursuant to section 5 of this act* to a client, are the property of the accountant, in the absence of an express agreement between the accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or new partners of the accountant or to his corporation.

Sec. 25. NRS 628.435 is hereby amended to read as follows:

628.435 1. *A practitioner shall comply with all professional standards for accounting and documentation related to an attestation applicable to particular engagements.*

2. Except as otherwise provided in this section ~~[,]~~ *and in all professional standards for accounting and documentation related to an attestation applicable to particular engagements,* a practitioner shall retain all documentation related to an attestation for not less than ~~[7]~~ *5* years after the date ~~[on which the practitioner delivers the attestation to the client.~~

~~2.]~~ *of the report containing the attestation.*

3. Documentation related to an attestation that, at the end of the retention period set forth in ~~[subsection 1,]~~ *subsections 1 and 2,* is a part of or subject to a pending investigation of, or disciplinary action against, a practitioner must be retained and must not be destroyed until the practitioner has been notified in writing that the investigation or disciplinary action has been closed or concluded.

~~[3. Any change in documentation related to an attestation must set forth the identity of each person making the change, the identity of each person approving the change, the date on which the change is made and the reason for the change if the reason is other than the assembling of preexisting documents. Any documentation related to an attestation which is changed must contain sufficient detail to enable a person reviewing the changed documentation who has relevant knowledge and experience but no previous connection with the attestation, to understand the nature, timing, reasoning for and extent of the change.~~

~~4. During the 60 days immediately after the date on which a practitioner delivers an attestation to a client, documents may be added to the file for assemblage and documentation of work previously performed. The provisions of this subsection do not authorize the deferral of procedures related to attestations that are otherwise required to be performed before the date of issuance of the attestation.~~

~~5. Each practitioner shall establish a policy for the retention and destruction of documentation related to any attestation made by the practitioner. The policy must provide for the preservation of documentation related to an attestation for the period required pursuant to subsection 1 and~~

~~for the authorized custody, security, access, retention and destruction of the documentation. The policy must be in writing and must include, without limitation, procedures for:~~

~~(a) Maintaining back-up copies of electronic documentation related to attestations at secure locations;~~

~~(b) Maintaining documentation related to attestations;~~

~~(c) Approving any changes to documentation related to attestations; and~~

~~(d) Approving the destruction of documentation related to attestations after that documentation is no longer required to be maintained. The procedures must provide for the identification of those persons, by name or position, who are authorized to approve the destruction of the documentation.~~

~~6.~~ *4.* As used in this section:

(a) ~~["Change in documentation related to an attestation" includes any addition, removal, deletion, substitution or editing of documentation related to an attestation, including, without limitation, physical or electronic additions to any file containing documentation related to an attestation or to any preexisting documentation related to an attestation, if the addition, removal, deletion, substitution or editing:~~

~~(1) Occurs after the date on which the attestation is delivered to the client; and~~

~~(2) Is supported by the documentation related to the attestation.~~

~~(b)~~] "Documentation related to an attestation" includes, without limitation:

(1) All documentation relating to consultations and resolutions of any differences of professional opinion regarding the exercise of professional judgment relating to an attestation; and

(2) Documentation of the findings or issues related to the attestation that, based on the judgment of the practitioner after an objective analysis of the facts and circumstances, ~~[are]~~ *is* determined to be significant, regardless of whether the documentation includes information or data that is inconsistent with the final conclusions of the practitioner.

~~[(c)]~~ *(b)* "Practitioner" means:

(1) A holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, any registration or license granted to a registered public accountant pursuant to NRS 628.350 or a permit issued pursuant to NRS 628.380; ~~[or]~~

(2) A ~~[certified public accountant or registered public accountant or a]~~ partnership, corporation ~~, [or]~~ limited-liability company ~~[composed of certified public accountants or]~~ *or sole proprietorship* registered ~~[public accountants which does not hold a live permit and does not have a registered office or residence in this State, but has been issued, or has applied for, a temporary permit]~~ pursuant to ~~[NRS 628.440.]~~ *section 4 of this act; or*

(3) A natural person granted practice privileges pursuant to section 5 of this act.

Sec. 26. NRS 628.440 is hereby amended to read as follows:

628.440 ~~[1.]~~ This chapter does not prohibit any person from serving as an employee of, or an assistant to, a certified public accountant or registered

public accountant who holds a live permit, or a partnership, corporation or limited-liability company composed of certified public accountants or registered public accountants registered pursuant to NRS ~~[628.340, 628.343, 628.345,]~~ 628.360, 628.363 or 628.365 if the employee or assistant does not issue any accounting or financial statement over his name.

~~[2. The Board may adopt regulations providing for the issuance of temporary permits to persons who do not hold live permits and do not have a registered office or residence in this State, or to partnerships, corporations and limited-liability companies which are not registered and have no registered office, to permit those persons, partnerships, corporations and limited liability companies to fulfill specific engagements or employments in this State. A temporary permit:~~

~~(a) Is valid for no more than 6 months;~~

~~(b) Covers only one engagement; and~~

~~(c) May not be issued to any person unless he is a certified public accountant or registered public accountant of another state or jurisdiction of the United States approved by the Board, or to any partnership, corporation or limited-liability company unless all of the partners, shareholders or members thereof are certified public accountants or registered public accountants of another state or a jurisdiction of the United States approved by the Board.~~

~~3. Each person, partnership, corporation and limited liability company applying for a temporary permit shall file with the Board a designation and acceptance of an agent for service of legal process and shall pay a fee established by the Board by regulation before commencing work for a client.~~

~~4. The person, partner, shareholder or member who is responsible for the conduct of the engagement shall be deemed to be personally engaged in the practice of public accounting in this State, and must meet all requirements of NRS 628.310 and requirements for continuing education.~~

~~5. A person who holds a temporary permit is subject to all of the provisions of this chapter relating to discipline. The Board may refuse to act upon an application for further permits for a period of time set by the Board, or may refuse to issue a temporary permit to any person, partnership corporation or limited liability company if disciplinary proceedings are pending in any jurisdiction.]~~

Sec. 27. NRS 628.450 is hereby amended to read as follows:

628.450 A natural person shall not assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that he is a certified public accountant ~~[,]~~ unless he ~~[has]~~ *:*

1. Has received a certificate as a certified public accountant under NRS 628.190 to 628.310, inclusive, holds a live permit ~~[,]~~ and all of his offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[.]~~ *; or*

2. Is a natural person granted practice privileges pursuant to section 5 of this act.

Sec. 28. NRS 628.460 is hereby amended to read as follows:

628.460 A partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* shall not assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is composed of certified public accountants unless the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is ~~[registered]~~ *:*

1. Registered as a partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* of certified public accountants and all offices of the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[.]~~ *; or*

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.

Sec. 29. NRS 628.470 is hereby amended to read as follows:

628.470 A natural person shall not assume or use the title or designation "public accountant," "registered public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that he is a public accountant unless he ~~[is]~~ *:*

1. Is a registered public accountant, holds a live permit ~~[,]~~ and all of his offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[, or unless he has]~~ *;*

2. Has received a certificate as a certified public accountant under NRS 628.190 to 628.310, inclusive, holds a live permit ~~[,]~~ and all of his offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[.]~~ *; or*

3. Is a natural person granted practice privileges pursuant to section 5 of this act.

Sec. 30. NRS 628.480 is hereby amended to read as follows:

628.480 A partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* shall not assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is composed of public accountants ~~[,]~~ unless the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is ~~[registered]~~ *:*

1. Registered as a partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* of registered public accountants or as a partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* of certified public accountants and all offices of the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole*

proprietorship in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[.]~~ *; or*

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.

Sec. 31. NRS 628.490 is hereby amended to read as follows:

628.490 1. Except as otherwise provided in subsection 2 ~~[,]~~ *and NRS 628.450 to 628.480, inclusive,* a person, partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* shall not assume or use the title or designation "certified accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "C.A.," "P.A. *"* ~~[,"]~~ or similar abbreviations likely to be confused with "C.P.A."

2. Anyone who ~~[holds]~~ *:*

(a) Holds a live permit *pursuant to NRS 628.380 or is registered as a partnership, corporation , [or] limited-liability company or sole proprietorship pursuant to the provisions of this chapter* and all of whose offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[and 628.380]~~ *;*

(b) Has been granted practice privileges pursuant to section 5 of this act; or

(c) Is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act,

➥ may hold himself out to the public as an ~~["accountant" or "auditor" and if he is a holder of a certificate, as a "certified public accountant," "C.P.A." or "CPA," or if he is registered, as a "public accountant," "P.A." or "PA."]~~ *"accountant," "auditor" or "certified public accountant."*

Sec. 32. NRS 628.510 is hereby amended to read as follows:

628.510 1. Except as otherwise provided in subsection 2, a person shall not sign or affix his name or the name of a partnership, corporation *,* ~~[or]~~ limited-liability company ~~[,]~~ *or sole proprietorship,* or any trade or assumed name used by him or by the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* in business, with any wording indicating that he is an accountant or auditor, or that the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is authorized to practice as an accountant or auditor or with any wording indicating that he or the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* has expert knowledge in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless ~~[he]~~ *:*

(a) He holds a live permit ~~[,]~~ or the partnership, corporation *,* ~~[or]~~ limited-liability company *or sole proprietorship* is registered pursuant to NRS ~~[628.340, 628.343, 628.345,]~~ 628.360, 628.363 or 628.365 *or section 4 of this act* and all of his offices in this State for the practice of public accounting are maintained and registered under NRS 628.370 ~~[.]~~ *;*

(b) He is a natural person granted practice privileges pursuant to section 5 of this act; or

(c) The partnership, corporation , ~~*[or]*~~ *limited-liability company* *or sole proprietorship* *is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.*

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, principal or member of any organization from affixing his signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title or office which he holds in the organization.

(b) Any act of a public official or public employee in the performance of his duties as such.

(c) Any person who does not hold a live permit from preparing a financial statement or issuing a report if the statement or report, respectively, includes a disclosure that:

(1) The person who prepared the statement or issued the report does not hold a live permit issued by the Board; and

(2) The statement or report does not purport to have been prepared in compliance with the professional standards of accounting adopted by the Board.

Sec. 33. NRS 628.520 is hereby amended to read as follows:

628.520 A person shall not sign or affix the name of a partnership, corporation , ~~[or]~~ limited-liability company ~~[,]~~ *or sole proprietorship* with any wording indicating that it is a partnership, corporation , ~~[or]~~ limited-liability company *or sole proprietorship* composed of accountants or auditors or persons having expert knowledge or special expertise in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless the partnership, corporation , ~~[or]~~ limited-liability company *or sole proprietorship* is ~~[registered]~~ *:*

1. Registered pursuant to NRS ~~[628.340, 628.343, 628.345,]~~ 628.360, 628.363 or 628.365 *or section 4 of this act* and all of its offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370 ~~[.]~~ *; or*

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.

Sec. 34. NRS 628.540 is hereby amended to read as follows:

628.540 1. Except as otherwise provided in subsection 2, a person, partnership, corporation , ~~[or]~~ limited-liability company *or sole proprietorship* shall not engage in the practice of public accounting or hold himself or itself out to the public as an "accountant" or "auditor" by use of either or both of those words, or by use of the word "accounting," or any sign, card, letterhead or in any advertisement or directory unless ~~[, if]~~ *:*

(a) If a natural person, he holds a live permit ~~[,]~~ *or has been granted practice privileges pursuant to section 5 of this act;* or ~~[if]~~

(b) If a partnership, corporation , ~~[or]~~ limited-liability company ~~[,]~~ *or sole proprietorship,* it is registered pursuant to NRS ~~[628.340, 628.343, 628.345,]~~ 628.360, 628.363 or 628.365 ~~[.]~~ *or section 4 of this act or is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.*

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, shareholder, principal or member of any organization from describing himself by the position, title or office he holds in that organization.

(b) Any act of a public official or public employee in the performance of his duties as such.

Sec. 35. NRS 628.550 is hereby amended to read as follows:

628.550 1. A person shall not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, corporation or limited-liability company, or in conjunction with the designation "and Company" or "and Co." or a similar designation , if there is in fact no bona fide partnership, corporation or limited-liability company ~~[registered]~~ *:*

(a) Registered under NRS ~~[628.340, 628.343, 628.345,]~~ 628.360, 628.363 or 628.365 ~~[.]~~ *or section 4 of this act; or*

(b) Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of section 4 of this act.

➥ A sole proprietor or partnership lawfully using a title or designation in conjunction with any names or designation on April 1, 1960, may continue to do so if he or it otherwise complies with the provisions of this chapter.

2. A person, partnership, corporation or limited-liability company shall not engage in the practice of public accounting under any name which is misleading as to:

(a) The legal form of the firm;

(b) The persons who are partners, officers, shareholders or members; or

(c) Any other matter.

➥ The names of past partners, shareholders or members may be included in the name of a firm or its successors.

Sec. 36. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 322 to Senate Bill No. 335 provides that certain laws governing the practice of accounting services also apply to sole proprietorships. The amendment also makes technical changes to various portions of the bill; it revises the definition of home office, changes certain acts that may be performed by accountants licensed in another jurisdiction and modifies provisions related to accounting firms.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 351.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 306.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-1145)"

"AN ACT relating to common-interest communities; providing that money collected by a unit-owners' association must be deposited or invested in certain institutions or securities; ~~[providing that]~~ *revising the provisions relating to amendment of* the governing documents ~~[must be amended]~~ to conform with the laws of this State; providing that an executive board of an association may not fill a vacancy on the executive board if the governing documents require a vote of the membership of the association; providing that an executive board may conduct a workshop without complying with certain requirements; making various other changes relating to common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill provides that a unit-owners' association must deposit ~~[any money collected]~~ *all funds of the association* into certain ~~[insured]~~ financial institutions. Section 3 also provides that an association ~~[may]~~ *shall* invest ~~[any money collected]~~ *all funds of the association* in certain investments.

~~[Section 5 of this bill revises the existing definition of "common elements" with respect to a planned community to provide that the common elements include any portion of the planned community which the association has a duty to maintain, repair, replace or restore. (NRS 116.017)]~~

Section 6 of this bill amends existing law to ~~[require]~~ *authorize* the executive board of an association to amend the declaration or governing documents of the association to conform with the laws of this State ~~[. Section 6 authorizes the amendments to the governing documents]~~ without *complying with* the procedural requirements or *obtaining the* approval of the members of the association. (NRS 116.1206)

Section 7 of this bill clarifies existing law to provide that a change in the use of a unit which requires unanimous approval of the units' owners includes only ~~[those land use and zoning regulations established by local or county ordinance.]~~ *changes to the boundary of a unit or the allocated interests of a unit.* (NRS 116.2117)

Existing law provides that an association may take certain actions, subject to the provisions of the declaration. (NRS 116.3102) Section 8 of this bill provides that an association may take certain actions, unless the governing documents expressly prohibit the association from doing so.

Section 9 of this bill provides that the executive board of an association may not fill a vacancy on the board without a vote of the units' owners if the

governing documents provide that the vacancy must be filled by a vote of the membership of the association. (NRS 116.3103)

Section 10 of this bill clarifies existing law to provide that a special meeting of the units' owners includes a special meeting at which the units' owners will vote to remove a member of the executive board. (NRS 116.3108)

Section 11 of this bill provides that the executive board of an association may conduct a workshop, which is not considered a meeting of the executive board as long as no action is taken, without complying with the requirements imposed on the executive board for holding a meeting. (NRS 116.31083)

Existing law requires an association to: (1) establish reserves for the repair, replacement and restoration of the major components of the common elements; (2) include in the annual budget certain information pertaining to the repair, replacement and restoration of the major components of the common elements; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements. (NRS 116.3115 116.31151, 116.31152) Sections 12, 12.3 and 12.7 of this bill require an association to perform such functions with respect to any other portion of the common-interest community which the association has a duty to maintain, repair, replace or restore in addition to the major components of the common elements.

Section 13 of this bill amends existing law to exempt architectural records submitted by a unit's owner from the records which must be made available by an association. (NRS 116.31175)

Section 14 of this bill amends existing law to add to the information statement provided as part of a purchase of a unit in a common-interest community a statement that the provisions of the Declaration of Covenants, Conditions and Restrictions or other governing documents may be superseded by provisions of chapter 116 of NRS. (NRS 116.41095)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~*["Civil action" means an action for money damages or equitable relief. The term does not include an action in equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential property.]*~~ *(Deleted by amendment.)*

Sec. 3. *1. Except as otherwise provided in subsection 2, an association, a member of the executive board, or a community manager shall deposit or invest all* ~~*[money collected in an account which is federally insured or insured by a private insurer]*~~ *funds of the association at a financial institution which:*

(a) Is located in this State;

(b) Is qualified to conduct business in this State; or

(c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.

2. Except as otherwise provided by the governing documents, ~~[if]~~ in addition to the requirements of subsection 1, an association ~~[deems the investment reasonable, the association may]~~ shall deposit, maintain and invest ~~[any money collected in certificates of deposit at a]~~ all funds of the association:

(a) In a financial institution ~~[, United States treasury bills, corporate or municipal bonds or any other security guaranteed by]~~ whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;

(b) With a private insurer approved pursuant to NRS 678.755; or

(c) In a government security backed by the full faith and credit of the Government of the United States.

3. The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.

Sec. 4. ~~[NRS 116.003 is hereby amended to read as follows:~~

~~116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ *(Deleted by amendment.)*

Sec. 5. ~~[NRS 116.017 is hereby amended to read as follows:~~

~~116.017 "Common elements" means:~~

~~1. In a condominium or cooperative, all portions of the common-interest community other than the units, including easements in favor of units or the common elements over other units; and~~

~~2. In a planned community, any real estate within the planned community owned or leased by the association, other than a unit.]~~ ~~*, and any portion of the planned community which the association has a duty to maintain, repair, replace or restore.]*~~ *(Deleted by amendment.)*

Sec. 6. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law . ~~[, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.~~

~~2. In]~~

2. A declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter ~~[must]~~ may be changed to conform to those provisions. A declaration, bylaw or other governing document of a common-interest community that ~~[must be]~~ is changed ~~[only to conform]~~ for the sole purpose of conforming with the

provisions of this chapter may be changed by the executive board without the approval of the members of the association and without complying with the procedural requirements of NRS 116.2117 or any other provision generally applicable to the adoption of an amendment to such declaration, bylaw or other governing document.

3. Except as otherwise provided in subsection 2, in the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

~~[3. An]~~

4. Except as otherwise provided in subsection 2, an amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 7. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, ~~[subsection 4 of NRS]~~ 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the

name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~[,]~~ *or* the allocated interests of a unit ~~[or the uses to which any unit is restricted,]~~ in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units. ~~*[As used in this subsection, "uses to which any unit is restricted" includes only applicable land use and zoning designations established by local or county ordinance, including, without limitation, single family, multifamily or commercial use.]*~~

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 8. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and ~~[subject to the provisions of the declaration,]~~ *unless the governing documents expressly prohibit the association from doing so,* the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements

described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 9. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board

may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. ~~[The]~~ *Except as otherwise provided in NRS 116.1206, the* executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term ~~[.]~~ *unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.*

Sec. 10. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners , *including a special meeting at which the units' owners will vote on the removal of a member of the executive board,* may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on

which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or

other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

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

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 11. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

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

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. *Notwithstanding any other provision of this chapter, the executive board may conduct a workshop to prepare for a meeting of the executive board. A workshop shall not be deemed to be a meeting of the executive board as long as the executive board does not take any action on any matter discussed during the workshop. If the executive board conducts a workshop, the executive board is not required to:*

(a) Provide to the units' owners notice of the workshop pursuant to subsection 2 or 3;

(b) Permit a unit's owner to attend or speak at a workshop pursuant to subsections 4 and 5;

(c) Comply with the requirements of this section for creating or distributing an agenda for a workshop; or

(d) Comply with the requirements of this section for recording or distributing minutes for a workshop.

13. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 12. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements ~~[.]~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore.* The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements *or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* are necessary.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. ~~[To the extent required by the declaration:]~~ *Except as otherwise provided in the governing documents:*

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 12.3. *NRS 116.31151 is hereby amended to read as follows:*

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements ~~[;]~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair,

replace or restore the major components of the common elements ~~[,]~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements *or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 12.7. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~[,]~~ *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;*

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements *and any other portion of the common-interest community* that the association is obligated to *maintain*, repair, replace or restore;

(b) An identification of the major components of the common elements *and any other portion of the common-interest community* that the association is obligated to *maintain*, repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements *and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore* identified pursuant to paragraph (b);

(d) An estimate of the cost of *maintenance*, repair, replacement or restoration of each major component of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of *maintaining*, repairing, replacement or restoration of the major components of the common elements *and any other portion of the common-interest community* identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 13. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including,

without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, *including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents,* except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 14. *NRS 116.41095 is hereby amended to read as follows:*

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. *Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address http://www.leg.state.nv.us/nrs/.*

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive

board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials:_____

Date:_____

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment provides that all association funds must be deposited into a financial institution and invested in certain investments. It expands the projects that may be funded with assessments to also include any portion of the common-interest community that the association is obliged to maintain in addition to the major components of the common elements, and it clarifies that an association may change its bylaws or governing documents without obtaining member approval or complying with procedural requirements if the change is to bring the bylaws or documents into compliance with Chapter 116 of NRS.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 72 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 103.

Bill read third time.

Roll call on Senate Bill No. 103:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 103 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 151.

Bill read third time.

Senator Lee disclosed that he is a licensed contractor.

Roll call on Senate Bill No. 151:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 151 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 195.

Bill read third time.

Remarks by Senator Hardy, Carlton and Nolan.

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

SENATOR HARDY:

I rise in opposition to this bill. This is an issue that we dealt with in the Senate Committee on Commerce and Labor during last session. This issue before us at that time was which addition of the American Medical Association's Guide to Evaluation of Permanent Impairment we should use. At that time, the committee made a decision which I think was, from a policy perspective, the right decision. That decision was to use the current edition which is updated regularly and best reflects what is going on in the industry or in the medical profession. We adopted that. We were encouraged to adopt that. There was not any opposition to that legislation at that time. There was a lot of support for that legislation, and we adopted the current definition. This bill takes us back to the fifth edition because people were dissatisfied with the current edition's definitions of permanent and partial disabilities. Using the latest version of this document is the correct policy. We should stay with that policy and not go backwards. I will be voting in opposition to this bill.

SENATOR CARLTON:

Thank you, Mr. President. I rise in support of the bill. I realize that we did have that discussion last session. We felt it would be expeditious for the body that when the next edition came out, we would adopt it. That way we do not have to come back every session and evaluate. We realize that may not have been the wisest move for the State. This bill, after it is amended, takes us back to where we have always been. There is nothing new. It is a well-worn path we have been on. There are a number of concerns with the sixth edition. There are some problems with it in other states. There will be significant cost in implementing the sixth edition so the decision was made to go ahead and stay with the fifth for now, evaluate the sixth as we go through it and make that decision at a later time.

SENATOR NOLAN:
What were some of the costs that were going to be incurred by going to the sixth edition?

SENATOR CARLTON:
Thank you, Mr. President. The costs are related to the regulatory process and all the training that would be needed. Doctors, in this State, and everyone who works with this would have to go to classes. I do not have the numbers off the top of my head, but it was significant dollars that they would have to expend in order to learn everything that was required in the sixth edition so it was not going to be an inexpensive process.

SENATOR HARDY:
This is not a debate about whether we should use the fifth edition or the sixth edition. It is a debate as to whether we should use the fifth edition, which the American Medical Association (AMA) believes is outdated and is the reason they came up with the sixth edition. The debate is not between the fifth edition and the sixth edition; it is between staying with the fifth edition, which the AMA believes is outdated, or going with the original language in the bill, which is the most current version. What the original language, we are talking about changing, will do is to lead us to this debate potentially every session. If the AMA feels the fifth edition is outdated, we ought to take that into account at some level.

Roll call on Senate Bill No. 195:
YEAS—13.
NAYS—Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Washington—7.
EXCUSED—Townsend.

Senate Bill No. 195 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 227.
Bill read third time.
Roll call on Senate Bill No. 227:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 227 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 243.
Bill read third time.
Roll call on Senate Bill No. 243:
YEAS—16.
NAYS—Care, Hardy, McGinness, Raggio—4.
EXCUSED—Townsend.

Senate Bill No. 243 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 293.
Bill read third time.

Roll call on Senate Bill No. 293:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 293 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 319.

Bill read third time.

Remarks by Senators Washington, Breeden and Care.

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

SENATOR WASHINGTON:
Thank you, Mr. President. I would like clarification of the sentinel event. Certain hospitals already do that. Is the bill necessary?

SENATOR BREEDEN:
Thank you, Mr. President. In discussion, we worked in collaboration with all the hospitals and they came to an agreement about reporting the events. There will also be a study designed to clarify a near miss. Does that answer the question?

SENATOR WASHINGTON:
Yes.

SENATOR CARE:
I will vote for the bill, but I would like to make a comment. In section 7 of the bill, there is a provision for maintaining the confidentiality of the reports. I do not think that is appropriate. I think it is bad public policy, but overall, the bill is agreeable with me.

Roll call on Senate Bill No. 319:
YEAS—14.
NAYS—Cegavske, Hardy, McGinness, Raggio, Rhoads, Washington—6.
EXCUSED—Townsend.

Senate Bill No. 319 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 350.

Bill read third time.

Roll call on Senate Bill No. 350:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 350 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

Bill read third time.

The following amendment was proposed by Senator Coffin:

Amendment No. 540.

"SUMMARY—Makes various changes relating to the prevailing wage requirements. (BDR 28-730)"

"AN ACT relating to labor; making various changes relating to the establishment of the prevailing rates of wages in each county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Labor Commissioner to establish the prevailing rate of wages for public works performed in each county. In determining the prevailing rate of wages for a county for a particular year, the Labor Commissioner is required to survey contractors who have performed work in the county during the preceding year. (NRS 338.030) Section 1 of this bill: (1) clarifies that the survey encompasses private and public nonresidential construction work; (2) specifies the classes of workmen for which the Labor Commissioner is required to survey; (3) if the prevailing rate of wages for a craft or type of work is a wage that has been collectively bargained, requires the Labor Commissioner to recognize the rate for the classes and subclasses of workmen and certain premium pay established in the collective bargaining agreement and adjust to the rate of wages in the agreement that are in effect on the effective date of the determination; and (4) clarifies the circumstances in which the Labor Commissioner is required to hold a hearing in a locality concerning an objection to or information received on a rate of prevailing wage that has been determined. These requirements apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Under existing law, agencies of the Executive Branch of the State Government, unless specifically exempted, are required to comply with the Nevada Administrative Procedure Act when adopting administrative regulations or adjudicating contested cases. (NRS 233B.039) Section 2 of this bill exempts the Labor Commissioner from compliance with the Act only in the process of determining and issuing the prevailing rate of wages in each county.

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

Section 1. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, *and any person who wishes to bid on a public work* shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed *private or public nonresidential construction* work in the county. *As used in this subsection, "nonresidential construction work" means any*

type of construction other than the construction of multifamily residences which are less than four stories in height and the construction of single-family residences.

3. For the purpose of a survey conducted pursuant to subsection 2, the Labor Commissioner shall recognize and survey only for the following classes of workmen:

(a) Alarm Installer;

(b) Boilermaker;

(c) Bricklayer, including, without limitation, Stone Mason;

(d) Carpenter;

(e) Cement Mason;

(f) Electrician-Communication Technician;

(g) Electrician-Lineman/Groundman/Operator;

(h) Electrician-Neon Sign;

(i) Electrician-Wireman;

(j) Elevator Constructor;

(k) Fence Erector;

(l) Floor Coverer;

(m) Glazier;

(n) Highway Striper;

(o) Hod Carrier-Brick Mason Tender;

(p) Hod Carrier-Plasterer Tender;

(q) Ironworker;

(r) Laborer;

(s) Mechanical Insulator;

(t) Millwright;

(u) Operating Engineer, including, without limitation, Survey Technician, Equipment Greaser, and Soils and Materials Tester;

(v) Painter;

(w) Piledriver (nonequipment);

(x) Plasterer;

(y) Plumber-Pipefitter;

(z) Refrigeration Technician;

(aa) Roofer (excluding metal roofs);

(bb) Sheet Metal Worker, including, without limitation, Air Balance Technician;

(cc) Sprinkler Fitter;

(dd) Taper;

(ee) Tile Setter-Terrazzo Worker-Marble Mason, including, without limitation, Tile Setter-Terrazzo Worker-Marble Mason Finisher;

(ff) Truck Driver; and

(gg) Well Driller.

4. Within 30 days after the determination *of the prevailing wages in a county* is issued:

(a) A public body or person entitled under subsection ~~[5.]~~ *7* to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~[3. The]~~

5. Except as otherwise provided in this subsection, the Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if he:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to *paragraph (a) or (b) of* subsection ~~[2.]~~ *4, unless the prevailing wage to which the objection or information pertains can be corrected to the rate of wages requested in the objection or information by the Labor Commissioner through administrative action, including, without limitation, the correction of a clerical error.*

➥ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

~~[4.]~~ *6.* Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~[5.]~~ *7.* At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~[6.]~~ *8. If the Labor Commissioner determines that the prevailing rate of wages for a craft or type of work is a wage which has been collectively bargained, the Labor Commissioner shall:*

(a) Recognize:

(1) The rate for the classes and subclasses of workmen established in the collective bargaining agreement; and

(2) Any premium pay established in the collective bargaining agreement for ~~*[:*~~

~~*(I) Subsistence,]*~~ *subsistence, traveling to another zone or area or similar purposes* ~~*. [;*~~

~~*(II) Shift differential; and*~~

~~*(III) Overtime, weekends or holiday.]*~~

(b) Adjust the prevailing rate of wages for the classes and subclasses of workmen to the rate of wages established in the collective bargaining agreement that are in effect on the effective date of the determination.

9. The wages so determined *pursuant to this section* must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~[7.]~~ *10.* Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 2. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) The Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) The Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Labor Commissioner only in the process of determining and issuing the prevailing rate of wages in each county pursuant to NRS 338.030, including, without limitation, the conduct of annual surveys.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 2.5. The provisions of NRS 338.030, as amended by section 1 of this act, apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 2009.

2. Sections 1 and 2.5 of this act become effective on January 1, 2010.

Senator Lee moved the adoption of the amendment.

Conflict of interest declared by Senator Hardy.

Remarks by Senators Lee and Washington.

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

SENATOR LEE:

This deletes provisions that would require the Labor Commissioner to recognize pay for shift differential, overtime, weekends and holidays when determining a prevailing wage based on a rate that was collectively bargained.

SENATOR WASHINGTON:

Can you give me an example of what would be a pay-for-shift differential?

SENATOR LEE:

If they are going to do a road project on Sundays, they may call people into work at 4:00 p.m. to start the job. If they work into the next day, it changes the way the 40-hour workweek is determined, because of the overtime on the weekend shift and double time on Sunday. The

operating engineers have that in some of their contracts, but they were trying to get that into this bill. That would have worked with the Department of Transportation on some of the labor times that they send people to work on differential between day, swing and graveyard shifts. Sometimes they have to work long hours.

One example of shift differential that is currently recognized under the operating engineers is called a special single shift where there is additional pay for working at night and there are other instances of shift pay for a second or third shift where you work 7.5 hours but are paid for 8 hours as a shift differential.

SENATOR WASHINGTON:

Would that include double time or if a shift has a higher rate of pay? Can they calculate the difference between graveyard shift versus a day shift?

SENATOR LEE:

It could if they get over the 40-hour workweek, holidays and extra days that they work, but we are taking this out of the bill.

The answers to your questions is "yes," the daily overtime weekend or holiday rates would have been recognized as part of the prevailing wage before this amendment, and in some, but not all instances, there would be a difference between graveyard and day shifts. That would have depended on the terms of the various collective-bargaining agreements and then only if the bargained rate prevailed.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 379.

Bill read third time.

Roll call on Senate Bill No. 379:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 379 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 6:30 p.m.

Motion carried.

Senate in recess at 5:50 p.m.

SENATE IN SESSION

At 6:45 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 128.

Bill read second time.

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

Amendment No. 468.

"SUMMARY—Requires certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time. (BDR 9-841)"

"AN ACT relating to property; requiring certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time after the sale; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a trustee to execute a power of sale on real property after a breach of an obligation or payment of debt due to the trustee. Section 1 of this bill amends existing law to : ~~[require:]~~ (1) *require* the beneficiary of the deed of trust to ~~[pay all sums of money necessary to acquire a clear title to the property and to record the deed of trust; and (2) the trustee to record]~~ *cause the recordation of* the sale of the property with the appropriate office of the county recorder within 30 days after the date of the sale ~~[.]~~ *; and (2) make the beneficiary liable for certain damages for failure to cause such recordation.* (NRS 107.080)

Existing law provides for a person to proceed on an action for the recovery of any debt or for the enforcement of any right secured by a mortgage or other lien upon real estate. Section 2 of this bill amends existing law to require the sheriff who conducted a foreclosure sale pursuant to such an action to record the sale with the appropriate office of the county recorder within 30 days after the date of the sale. (NRS 40.430)

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

Section 1. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of

the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. Within 30 days after a sale of property is conducted pursuant to this section ~~[:~~

~~(a) The]~~ , the beneficiary shall ~~[pay all sums of money necessary to acquire a clear title to the property and to record the deed of trust; and~~

~~(b) The trustee shall record the sale of the property]~~ cause the trustee's deed upon sale to be recorded in the office of the county recorder of the county in which the property is located. If the beneficiary fails to cause the recordation of the trustee's deed upon sale pursuant to this subsection, the beneficiary:

(a) Is liable in a civil action to any party that is a lienholder against the property that is the subject of the sale in the sum of $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by his failure to comply with the provisions of this subsection and for reasonable attorney's fees and the costs of bringing the action.

Sec. 2. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the

sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

4. *Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.*

5. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 3. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment removes the requirement that a beneficiary of a deed of trust pay certain sums to acquire and record a deed of trust. The amendment instead provides for damages for failure to timely record the deed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 252.

Bill read second time.

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

Amendment No. 293.

"SUMMARY—Revises provisions relating to solicitations of charitable donations. (BDR 52-843)"

"AN ACT relating to solicitation of charitable donations; requiring a person soliciting donations for a charitable, nonprofit or religious entity to make certain disclosures; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires certain disclosures to be made by a person who solicits contributions for or on behalf of a charitable, nonprofit or religious organization. If the organization benefits law enforcement officers or professional firefighters, the person must also disclose the percentage of total contributions that benefits law enforcement officers or professional firefighters in this State ~~[. (NRS 598.1305)]~~ *upon request.*

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

Section 1. ~~[NRS 598.1305 is hereby amended to read as follows:~~

~~598.1305 1. A person representing that he is conducting or executing a solicitation for or on behalf of a charitable or nonprofit organization or an organization which is established for and serving bona fide religious purposes shall disclose:~~

~~(a) The full, legal name of the organization;~~

~~(b) The state in which the organization was formed;~~

~~(c) The purpose of the organization; and~~

~~(d) If the organization purports to benefit law enforcement officers or professional firefighters, the percentage of total contributions that benefits law enforcement officers or professional firefighters in this State.~~

~~2. A person, in planning, conducting or executing a solicitation for or on behalf of a charitable organization, shall not:~~

~~(a) Make any claim or representation concerning a contribution which directly, or by implication, has the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances; or~~

~~(b) Omit any material fact deemed to be equivalent to a false, misleading or deceptive claim or representation if the omission, when considering what has been said or implied, has or would have the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances.~~

[2.] ~~*3.* Notwithstanding any other provisions of this chapter, the Attorney General has primary jurisdiction to investigate and prosecute a violation of this section.~~

[3.] ~~*4.* Except as otherwise provided in NRS 41.480 and 41.485, a violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.~~

[4.] ~~*5.* As used in this section:~~

~~(a) "Charitable organization" means any person who, directly or indirectly, solicits contributions and who:~~

~~(1) The Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code; or~~

~~(2) Is, or holds himself out to be, established for a charitable purpose.~~

~~→ The term does not include an organization which is established for and serving bona fide religious purposes.~~

~~(b) *"Law enforcement officer" means:*~~

~~*(1) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive; and*~~

~~*(2) Any person upon whom powers equivalent to some or all of the powers described in subparagraph (1) are conferred by any other state, a territory or possession of the United States, the District of Columbia or the Federal Government,*~~

~~→ *whether that person actively exercises those powers or has retired from service.*~~

~~*(c) "Professional firefighter" means any person who is or has been employed as a professional full-time salaried firefighter in this State or any other state, a territory or possession of the United States, the District of Columbia or the Federal Government.*~~

~~*(d)* "Solicitation" means a request for a contribution to a charitable organization that is made by:~~

~~(1) Mail;~~

~~(2) Commercial carrier;~~

~~(3) Telephone, facsimile or other electronic device; or~~

~~(4) A face-to-face meeting.~~

~~➥ The term includes solicitations which are made from a location within this State and solicitations which are made from a location outside of this State to persons located in this State.]~~ *(Deleted by amendment.)*

Sec. 2. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person representing that he is conducting or executing a solicitation for or on behalf of a charitable or nonprofit organization or an organization which is established for and serving bona fide religious purposes shall disclose:

(a) The full, legal name of the organization;

(b) The state in which the organization was formed;

(c) The purpose of the organization;

(d) If applicable, the fact that the person is employed by a company that is in the business of fundraising and the full, legal name and address of that company; and

(e) If the organization represents that it benefits law enforcement officers or professional firefighters, the percentage of total contributions that benefits law enforcement officers or professional firefighters in this State upon request.

2. As used in this section:

(a) "Charitable organization" means any person who:

(1) The Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code; or

(2) Is, or holds himself out to be, established for a charitable purpose.

➥ The term does not include an organization which is established for and serving bona fide religious purposes.

(b) "Law enforcement officer" means:

(1) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive; and

(2) Any person upon whom powers equivalent to some or all of the powers described in subparagraph (1) are conferred by any other state, a territory or possession of the United States, the District of Columbia or the Federal Government,

➥ whether that person actively exercises those powers or has retired from service.

(c) "Professional firefighter" means any person who is or has been employed as a full-time salaried professional firefighter in this State or any other state, a territory or possession of the United States, the District of Columbia or the Federal Government.

(d) "Solicitation" means a request for a contribution that is made by telephone. The term includes requests which are made from a location within this State and requests which are made from a location outside of this State to persons located in this State.

Remarks by Senators Carlton, Cegavske and Parks.

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

SENATOR CARLTON:

Thank you, Mr. President. This amendment deletes the bill in its entirety and replaces it with new language requiring a telephone solicitor requesting donations on behalf of a charitable, nonprofit or religious organization to disclose certain information regarding that organization.

SENATOR CEGAVSKE:

Thank you, Mr. President. If we might have a little more information since the bill is new.

I am trying to figure out who are the nonprofits and why the bill was deleted in its entirety. How did this come about, and what is the purpose of this new bill?

On the solicitation part, the conversation that they have with us when they call, do they have to disclose up front? Who has to disclose? Is it similar to the political parties, when they call, where the language is that you have to disclose who you are and whom you work for?

SENATOR PARKS:

Thank you, Mr. President. Yes, the bill was substantially changed in committee. It was based on testimony we received on an issue of compelled speech and to get around the problems that might be created from a legal perspective was the reason we amended the bill. The bill was at the request of the Police Protective Association and the Fire Fighters Union, and it was a result of numerous situations where solicitors call and ask for contributions, and they use names of organizations that are similar to well known organizations in the hopes that an unsuspecting contributor will make a donation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 267.

Bill read second time.

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

Amendment No. 179.

"SUMMARY—Makes various changes concerning ~~[the procedures for adopting administrative regulations and the requirements of the Open Meeting Law.]~~ *governmental administration.* (BDR 18-62)"

"AN ACT relating to governmental administration; revising the provisions governing the notice of intention to act on a proposed regulation by a state agency subject to the Nevada Administrative Procedure Act; providing that workshops and hearings regarding a proposed regulation of such a state agency are subject to the Open Meeting Law; revising the procedure for the review of permanent regulations and certain temporary regulations by the Legislative Commission or the Subcommittee to Review Regulations; requiring a public body to make available certain documents to the public at a public meeting; *eliminating certain nonprofit entities affiliated with a university or college from the definition of "university foundation" for purposes of the Open Meeting Law, the requirements relating to public records, the exemption from the tax on the transfer of real property and other requirements pertaining to university foundations;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Administrative Procedure Act requires each state agency that is not exempt from the Act to provide 30 days' notice of its intended action on any proposed regulation. The agency is required to wait to give such notice until at least 30 days after delivering the proposed regulation to the Legislative Counsel or until the agency has received the approved or revised text of the proposed regulation from the Legislative Counsel, whichever occurs first. (NRS 233B.060) Section 1 of this bill makes receipt of the approved or revised text of the proposed regulation from the Legislative Counsel the only required condition before provision of the 30 days' notice. Section 3 of this bill makes a conforming change.

Existing law prescribes a procedure for the review of certain temporary regulations and of adopted permanent regulations by the Legislative Commission or the Subcommittee to Review Regulations for conformity with statutory authority and legislative intent. Under existing law, unless the Commission or Subcommittee objects to such a temporary or permanent regulation, the regulation becomes effective. (NRS 233B.0633, 233B.067, 233B.0675) Sections 4-6 of this bill require the Commission or Subcommittee to either affirmatively approve or object to a regulation.

The Open Meeting Law requires all meetings of public bodies to be open and public unless otherwise provided by a specific statute. (NRS 241.020) Section 2 of this bill provides that each workshop and hearing required to be conducted concerning administrative regulations is subject to the Open Meeting Law. (NRS 233B.061)

Under the Open Meeting Law, a public body is required, upon request and at no charge, to provide a copy of an agenda for the meeting, any proposed ordinance or regulation to be discussed at the meeting, and other supporting documents to members of the public body for an item on the agenda. (NRS 241.020) Section 7 of this bill requires that a public body make at least one copy of those documents available to the public at the public meeting to which the documents pertain.

Section 8 of this bill amends the definition of "university foundation" to exclude certain nonprofit organizations affiliated with a university or college for the purposes of provisions applicable to university foundations, including the Open Meeting Law, the requirements relating to public records and the exemption from the tax on the transfer of real property. (NRS 239.005, 241.015, 375.090, 396.405, 396.535)

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

Section 1. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and NRS 233B.061, before adopting, amending or repealing:

(a) A permanent regulation, the agency must, ~~[30 days or more after delivering a copy of the proposed regulation to the Legislative Counsel, or]~~ after receiving the approved or revised text of the proposed regulation

prepared by the Legislative Counsel pursuant to NRS 233B.063, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ *must be approved* by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ *must be approved* by the Legislative Commission or the Subcommittee to Review Regulations.

Sec. 2. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.

5. ~~[The agency shall keep, retain and make available for public inspection written minutes and an audio recording or transcript of each public hearing held pursuant to subsection 3 in the manner provided in NRS 241.035.]~~ *Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS.*

Sec. 3. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. ~~[At least 30 days before the time of giving notice of its intention]~~ *An agency that intends* to adopt, amend or repeal a permanent regulation ~~[an agency shall]~~ *must* deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 4. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority

pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the temporary regulation at its next regularly scheduled meeting if the request for examination of the temporary regulation is received more than 10 working days before the meeting; or

(b) Refer the temporary regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the temporary regulation was referred, ~~[does not object to]~~ *approves* the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission or the Subcommittee objects to the temporary regulation after determining that:

(a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;

(b) The temporary regulation does not conform to statutory authority; or

(c) The temporary regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.

6. If the Legislative Commission or the Subcommittee to Review Regulations has objected to a temporary regulation, the agency that adopted the temporary regulation shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the

Legislative Counsel within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission or the Subcommittee for review. If ~~[there is no objection to]~~ *the Legislative Commission or the Subcommittee approves* the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

7. If the Legislative Commission or the Subcommittee to Review Regulations objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission or the Subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.

Sec. 5. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

➥ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become

effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred, ~~[does not object to]~~ *approves* the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or Subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority; or

(c) The regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members of the Legislative Commission.

Sec. 6. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission, or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067, has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission or Subcommittee for review. If ~~[there is no objection to]~~ *the Commission or Subcommittee approves* the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or Subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or Subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 7. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is

closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by

electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ *The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain.* As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public

body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 8. *NRS 396.405 is hereby amended to read as follows:*

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection 14 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated ~~[exclusively]~~ *primarily* for the purpose of ~~[supporting]~~ *fundraising in support of* a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

~~[Sec. 8.]~~ *Sec. 9.* This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee, McGinness, Care and Cegavske.

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

SENATOR LEE:

This bill clarifies the definition of "university foundation" to exclude certain nonprofit organizations affiliated with a university or college for certain purposes, including Nevada's Open Meeting Law requirements.

SENATOR MCGINNESS:

I recall the first part of this bill pertaining to the Open Meeting Law. I do not recall the second part about the exemption from the tax on the transfer of real property and other requirements pertaining to "university foundations." I cannot find that language in the bill.

SENATOR LEE:
I cannot find that language either.

SENATOR CARE:
Thank you, Mr. President. As I recall, it was about the UNLV Foundation and they wanted to put into statute what is currently the practice. They had been looking for another vehicle in another piece of legislation and could not find it so it was placed into this one. There were no objections from the committee. I asked for clarification from Mrs. Erdoes about whether the amendment was germane to the underlying thesis of the bill. She was able to make the connection. I pointed out to the proponent of the amendment that if the single-subject rule were to be construed to be read in the way it is today, that would not have been permitted on a ballot. It is in the bill.

SENATOR MCGINNESS:
I was concerned about the exemption from real property transfer tax. Normally, something like this would go through the Committee on Taxation. That was the genesis of that question.

SENATOR CEGAVSKE:
Thank you, Mr. President. The Senate Assistant Majority Leader commented this is for the UNLV Foundation. Are there any other foundations or can you give us a list of the foundations that this would benefit. I do not see that information in here.

SENATOR CARE:
Yes, I have the language. It was actually offered on behalf of the UNLV Alumni Association. It is a different organization from the one I stated. That is who asked for the amendment. I do not recall there being testimony as to any other entity.

SENATOR CEGAVSKE:
Could another foundation benefit under this? Was this exclusively for the alumni at UNLV? Who else could benefit, or could someone come forward and ask how to apply to benefit from this piece of legislation?

SENATOR LEE:
It "is organized and operated primarily for the purpose of fund-raising and support ofa university, state college or a community college." It would include all of those people in the same effort.
Senator McGinness asked a good question. It is prescribed in section 8, but we can roll this bill to the next legislative day.

SENATOR MCGINNESS:
Thank you.

Senator Lee moved that Senate Bill No. 267 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senate Bill No. 269.

Bill read second time.

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

Amendment No. 422.

"SUMMARY—Makes various changes to provisions governing physicians and certain related professions. (BDR 54-757)"

"AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of

the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising provisions governing osteopathic medicine; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, ~~[56,]~~ 59-65, 70 and 79-85 of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, ~~[630.348,]~~ 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. Section 14 of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. Section 17 of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) Section 18 of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) Section 22 of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) Section 25 of this bill authorizes the Executive Director of the Board to issue subpoenas when conducting investigations for the Board. (NRS 630.140) Sections 26-28, 30-32 and 35 of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the

submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) Sections 36-38 of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations ~~[, the issuance of a single purpose license to a physician who is licensed in another state]~~ and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) Section 40 of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) Sections 41-45, 47-49, 53, 54, 57 and 58 of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. Section 67 adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is about to violate the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. Section 68 also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. Sections 69-78 make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

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

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by *a* specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, *perfusionist*, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; [and]

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any ~~[.]~~ *; and*

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. *1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.*

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. *"Perfusionist" means a person who is licensed to practice perfusion by the Board.*

Sec. 6. *"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.*

Sec. 7. *The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:*

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. *To be eligible for licensing by the Board as a perfusionist, an applicant must:*

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. *1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.*

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. *The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:*

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. *1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.*

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. *1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:*

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

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

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. *1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:*

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. *If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.*

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine , *perfusion* and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, *perfusionists,* physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, *perfusionists,* physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, *and sections 4, 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ , *including, but not limited to, the performance of an autopsy.*

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege . ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, *perfusionists*, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or *perfusionist or* practitioner of respiratory care of the Armed Services or a medical officer or *perfusionist or* practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such

programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A]~~ person who is employed by a physician and provides respiratory care *or services as a perfusionist* under the supervision of that physician;

~~[(j)]~~ *(i)* The maintenance of medical equipment for *perfusion or* respiratory care that is not attached to a patient; and

~~[(k)]~~ *(j)* A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, *perfusionists*, physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ *January* 1 and terminating on ~~[June 30.]~~ *December 31*.

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ *3* and ~~[3]~~ *4* of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, *perfusionist,* physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, *perfusionist,* physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of *perfusion or* respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer , *Executive Director* or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays , ~~[and]~~ medical records and other papers ~~[.]~~ *and tangible items*. The Secretary-Treasurer, President or other officer of the Board acting on its behalf *or the Executive Director* must sign the subpoena.

2. If any person fails to comply with the subpoena , ~~[within 10 days after its issuance,]~~ the Secretary-Treasurer , *Executive Director* or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed 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 then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ *(b)* The applicant:

~~[(a)]~~ *(1)* Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ *(2)* Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ *(3)* Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ *(4)* Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ *(c)* Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine *, to practice as a physician assistant or to practice respiratory care* shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board 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. *Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.*

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board 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. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. *The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.*

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice ~~[,]~~ *within the 10 years immediately preceding the date of the application for the license,* whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state *within the 10 years immediately preceding the date of the application for the license* and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility *within the 10 years immediately preceding the date of the application for the license* or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board *may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.*

3. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 *1.* In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ *(a)* The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ *(b)* The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ *the Commission.*

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the

district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

~~[3. Any unsuccessful applicant may appeal to the district court to review the action of the Board, if he files his appeal within 90 days from the date of the rejection of his application by the Board. Upon appeal the applicant has the burden to show that the action of the Board is erroneous or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ *:*

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care *; or*

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ *:*

(1) To persons in this State who are indigent, uninsured or unable to afford health care; *or*

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special

volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for

licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics . ~~[if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.]~~

2. ~~*[(f) A single purpose license to a physician who is licensed in another state to perform an independent medical examination of a patient in this State for the purpose of diagnosing, forming an opinion and reporting the medical condition of the patient in this State.*~~

~~2.]~~ *For the ~~[purposes of paragraphs (e) and (f)]~~ purpose of paragraph (e) of subsection 1, the physician must:*

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ *an authorized facility* license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ *an authorized facility* license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ *an authorized facility* license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ *the* notification, the ~~[restricted]~~ *authorized facility* license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ *an authorized facility* license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement	$600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ ~~*[single purpose,]*~~ special or special purpose license	400
For renewal of a limited ~~[, restricted]~~ or special license	400
For application for and issuance of a license as a physician assistant	400
For biennial registration of a physician assistant	800
For biennial registration of a physician	800
For application for and issuance of a license as a *perfusionist or* practitioner of respiratory care	400
For biennial renewal of a license as a perfusionist	*600*
For biennial registration of a practitioner of respiratory care	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure	50
For a duplicate identification card	25
For a duplicate license	50
For computer printouts or labels	500
For verification of a listing of physicians, per hour	20
For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization;

(d) Be certified by the ~~[National Board]~~ *Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation* for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated, is violating or is about to violate any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated, is violating or is about to violate any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ *or which are beyond the scope of his training.*

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe, unsound, unprofessional or contrary to the public interest.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ *within 30 days after the date the licensee knows or has reason to know of the violation.*

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. *Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.*

2. Any ~~[person,]~~ *licensee,* medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ *3.* Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ *the* privileges *of a physician, physician assistant or practitioner of respiratory care* to practice ~~[medicine]~~ while the physician , *physician assistant or practitioner of respiratory care* is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician , *physician assistant or practitioner of respiratory care* concerning the care of a patient or the competency of the physician , *physician assistant or practitioner of respiratory care* within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ *4.* The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ *5.* On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ *4.*

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, *perfusionist,* physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine *, perfusion* or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to practice while the physician, *perfusionist,* physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, *perfusionist,* physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, *perfusionist,* physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, *perfusionist,* physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a *perfusionist,* physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ *not a physician.* The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report

pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ *or an investigative committee of the Board.*

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 *1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.*

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician *, physician assistant or practitioner of respiratory care* pending proceedings for disciplinary action and requires the physician *, physician assistant or practitioner of respiratory care* to submit to a mental or physical examination or an examination testing his competence to practice *,* ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, *perfusionist,* physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, *perfusionist,* physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, *perfusionist,* physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, *perfusionist,* physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, *perfusionist,* physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, *perfusionist,* physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, *perfusionist,* physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine , *perfusion* or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine , *perfusion* or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ *by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.*

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ *5. A formal hearing must be held at the time and date set at the early case conference by:*

(a) The Board ~~[, a]~~ *;*

(b) A hearing officer ~~[or a]~~ *;*

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members *of the Board* designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ *an investigative committee of the Board or the Board;*

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ *panel must* not *be* a physician . ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ *licensee's* receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board 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. The willful failure of a ~~[physician]~~ *licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against a ~~[physician]~~ *licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine *, perfusion* or respiratory care is conclusive evidence of its occurrence.

Sec. 56. ~~[NRS 630.348 is hereby amended to read as follows:~~

~~630.348 1. Each person who holds a license issued pursuant to this chapter and who accepts the privilege of practicing medicine , *perfusion* or respiratory care within this State pursuant to the provisions of the license shall be deemed to have given his consent to the revocation of the license at any time by the Board in accordance with the provisions of this section.~~

~~2. The Board shall not revoke a license issued pursuant to this chapter unless the Board finds by a preponderance of the evidence that the licensee committed a material violation of:~~

~~(a) Any provision of NRS 630.161 or 630.301 to 630.3065, inclusive; or~~

~~(b) Any condition, restriction or limitation imposed on the license.]~~ *(Deleted by amendment.)*

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[except for an advisory]~~ *other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any* member serving on a panel of the Board *at the* hearing ~~[charges,]~~ *of the matter,* may participate in *an adjudication to obtain* the final order of the Board. ~~[If the Board, after a formal hearing, determines from a preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.]~~ *At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:*

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ *The Board may limit the time within which the parties and the complainant may make their arguments and statements.*

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If *, in the findings of fact and conclusions of law, the Board, hearing officer or panel of* the Board determines that no violation has occurred, ~~[it]~~ *the Board* shall dismiss the charges, in writing, and notify the ~~[physician]~~ *respondent* that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.]~~ *4.* Except as otherwise provided in subsection ~~[4,]~~ *5,* if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a *written* public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license *;* ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ *for each violation;*

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ *5.* If the Board finds that the ~~[physician]~~ *respondent* has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ *6.* The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ *7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.* An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ *4* or ~~[4]~~ *5* of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine *, perfusion* or respiratory care has been limited; or

(b) Whose license to practice medicine *, perfusion* or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine , *perfusion* or respiratory care by physicians , *perfusionists* or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a *perfusionist, to practice as a* physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine , *perfusion* or respiratory care;

(c) To limit the practice of a physician, *perfusionist,* physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ *; or*

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine , *perfusion or respiratory care* without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine , *perfusion* or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine , *perfusion* or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine , *perfusion* or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by *a* specific statute, practices medicine , *perfusion* or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, *perfusion*, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, *perfusionist*, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. *1. If the Board has reason to believe that a person has violated, is violating or is about to violate any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.*

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

Sec. 68. *In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.*

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ *, other than the use of silicone oil to repair a retinal detachment.*

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine *or perfusion* pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ *:*

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ *; and*

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ *may* be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine . ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ *Malpractice or gross* malpractice, which may be evidenced by ~~[claims]~~ *a claim* of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. *If the osteopathic physician participates*

in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ *licensee* against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ *licensee's* receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board 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. The willful failure of ~~[an osteopathic physician]~~ *a licensee* to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ *licensee.*

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ *a licensee* if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ *licensee* has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ *any* other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, *an employee or volunteer of a diversion program specified in NRS 633.561,* or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a *perfusionist, a* physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a *perfusionist or a* physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or

upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner,

who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, *perfusionist*, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to

whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *perfusionist,* dentist, licensed nurse,

dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or

practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, *perfusionist*, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner

or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, ~~[56,]~~ 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date 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 of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 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 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 of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision 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.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 *1.* Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ *shall, except for good cause,* issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ *(a)* At the time the applicant files his application with the Board, the license is in effect ~~[;~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.]~~ *and unrestricted; and*

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Senator Carlton moved the adoption of the amendment.

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

Thank you, Mr. President. This amendment removes reference in the bill to a single-purpose license for a physician licensed in another jurisdiction in order to perform an independent medical evaluation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 301.

Bill read second time.

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

Amendment No. 318.

"SUMMARY—Makes various changes relating to military installations. (BDR 22-689)"

"AN ACT relating to land use; requiring ~~[certain political subdivisions to develop and enact various master plan provisions, zoning ordinances and building codes specific to certain property near military installations;]~~ *the inclusion of a military activities plan in a master plan in certain circumstances;* requiring owners of ~~[certain]~~ property ~~[near military installations]~~ *located in an area covered by such a plan* to disclose certain information to any potential buyer of the property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires planning commissions to prepare and adopt a comprehensive, long-term master plan for the physical development of the city ~~[,]~~ *or* county ~~[or region]~~ in the jurisdiction of the planning commission *for adoption by the governing body of the city or county* and sets forth the subject matter of the master plan. (NRS ~~[278.150, 278.160) Governing bodies of cities and counties are authorized under existing law to adopt and amend the master plan of the planning commission, and to adopt, amend and enforce zoning regulations. (NRS 278.230, 278.260) Section 3 of this bill requires planning commissions in areas that include military installations to work with military personnel to designate certain areas of property near the military installation for special treatment under the master plan. The~~

~~governing body is then required to amend the master plan and to enact or amend zoning regulations prospectively applicable to those designated areas to assure compatibility with the operations of the military. Section 5 of this bill further requires the governing body to enact building code provisions in those designated areas that require certain sound attenuation standards and specifications in certain buildings that obtain building permits after the enactment of the code provisions.]~~ *278.150-278.230) Sections 7 and 9 of this bill require that the master plan of a city or county include a military activities plan at the request of the commander of a military installation at which 1,000 or more service members are permanently assigned and which is located in the city or county.* Section 8 of this bill *describes the contents of the military activities plan. Section 14 of this bill* requires an owner of property located in ~~[those designated areas]~~ *an area covered by a military activities plan* to disclose ~~[the designation]~~ *information concerning the military activities plan* to a potential buyer of the property. *Section 18 of this bill provides that a military activities plan adopted by a city or county in its master plan does not apply to any property for which a development agreement has been entered into with a city or county before October 1, 2009, or for which any land use entitlements were granted before that date, or to any amendments, modifications, extensions or additions made to such an agreement on or after October 1, 2009, or any land use entitlements granted for such property on or after October 1, 2009.*

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

Section 1. ~~[Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 2. ~~[*"Territory in the vicinity of a military installation" means any property so designated pursuant to paragraph (a) of subsection 1 of section 3 of this act.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~[*1. The planning commission of each city and county in which a military installation is located shall, in consultation with the commander of the installation or his designee, formulate a description of property in the county that is to be designated as:*~~

~~*(a) Territory in the vicinity of the military installation, which territory must include, without limitation, all areas of the county in which major or significant levels of military activity take place.*~~

~~*(b) High noise or accident potential zones within the territory in the vicinity of the military installation as designated pursuant to paragraph (a). Designation of such a zone should include consideration of, without limitation:*~~

~~*(1) Corridors for the arrival and departure of aircraft; and*~~

~~*(2) Ordnance safety zones.*~~

~~*2. The planning commission shall amend its master plan to include a plan for property located in high noise or accident potential zones*~~

~~*designated pursuant to subsection 1 to assure development compatible with the high noise and accident potential generated by the military installation and military operations that may have an adverse effect on public health and safety.*~~

~~*3. Any amendment made pursuant to subsection 2 must be made pursuant to NRS 278.210, and is in addition to the requirements for a master plan provided in NRS 278.150 and 278.160.*~~

~~*4. The governing body of each city and county in which a military installation is located shall adopt, pursuant to NRS 278.220, any amendments made to the master plan by the planning commission pursuant to subsection 2.*~~

~~*5. The governing body of each city and county in which a military installation is located shall adopt and enforce zoning regulations, restrictions and boundaries for property in a high noise or accident potential zone designated pursuant to subsection 1 to assure development compatible with the high noise and accident potential generated by the military installation and military operations that may have an adverse effect on public health and safety.*~~

~~*6. Any adoption of zoning regulations, restrictions and boundaries pursuant to subsection 5 must be made pursuant to NRS 278.260 and is in addition to the requirements for zoning regulations provided in NRS 278.250.*~~

~~*7. The provisions of this section do not restrict, limit or modify, or authorize or require a planning commission or governing body of a city or county in which a military installation is located to restrict, limit or modify the right of a landowner to undertake and complete development and use of any property located in a high noise or accident potential zone under the terms and conditions of a development plan approved on or before the adoption of any ordinances, regulations, restrictions or boundaries established pursuant to this section.*~~

~~*8. As used in this section, "high noise or accident potential zone" means a zone designated as such pursuant to paragraph (b) of subsection 1.]*~~ *(Deleted by amendment.)*

Sec. 4. ~~*[Any variance sought pursuant to NRS 278.315 to a zoning regulation, restriction or boundary adopted pursuant to subsection 5 of section 3 of this act may not be granted without a specific finding that the purpose of the military installation and compatibility with military operations are preserved.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~*[1. The governing body of any city or county that includes property designated as territory in the vicinity of a military installation pursuant to section 3 of this act shall incorporate the sound attenuation standards and specifications set forth in subsection 2 into any building code in existence on or adopted after the date that the property becomes such territory. These standards and specifications apply only to new development and renovations that are:*~~

~~*(a) The subject of building permits issued on or after the effective date of any building code amendments made pursuant to this section; and*~~

~~*(b) Located on property within the territory in the vicinity of the military installation.*~~

~~*2. Sound attenuation standards and specifications incorporated into a building code pursuant to this section must require the reduction of noise levels to be incorporated into the design and construction of any residential building, public building, library and church to achieve a maximum interior noise level of 45 decibels.*~~

~~*3. As used in this section:*~~

~~*(a) "Library" has the meaning ascribed to it in NRS 377A.015.*~~

~~*(b) "Public building" means any building or office space occupied by:*~~

~~*(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or*~~

~~*(2) The State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.*~~

~~*→ If only part of a building is occupied by an entity described in this paragraph, the term means only that portion of the building which is so occupied.*~~

~~*(c) "Residential building" has the meaning ascribed to it in NRS 461.150.]*~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 278.010 is hereby amended to read as follows:~~

~~278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2 to 5, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ *(Deleted by amendment.)*

Sec. 7. NRS 278.150 is hereby amended to read as follows:

278.150 1. The planning commission shall prepare and adopt a comprehensive, long-term general plan for the physical development of the city, county or region which in the commission's judgment bears relation to the planning thereof.

2. The plan must be known as the master plan, and must be so prepared that all or portions thereof, except as otherwise provided in subsections 3 ~~[and 4,]~~ *, 4 and 5,* may be adopted by the governing body, as provided in NRS 278.010 to 278.630, inclusive, as a basis for the development of the city, county or region for such reasonable period of time next ensuing after the adoption thereof as may practically be covered thereby.

3. ~~[In]~~ *Except as otherwise provided in subsection 5, in* counties whose population is 100,000 or more but less than 400,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion a conservation plan, a housing plan and a population plan as provided in NRS 278.160.

4. ~~[In]~~ *Except as otherwise provided in subsection 5, in* counties whose population is 400,000 or more, the governing body of the city or county shall

adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.

5. Upon the request of the commander of a military installation at which 1,000 or more service members are permanently assigned, the governing body of the city or county in which the military installation is located shall include in its master plan a military activities plan as provided in NRS 278.160.

Sec. 8. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in ~~[subsection]~~ *subsections* 4 *and 5* of NRS 278.150 and ~~[subsection]~~ *subsections* 3 *and 4* of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) *Military activities plan. Showing the general locations of and encouraging compatible development with:*

(1) Lands used by the military, including, without limitation, installations and ranges;

(2) Areas under airspace that is designated for military activities, including, without limitation, airspace designated for special use, corridors for the approach and departure of aircraft and routes designated for military training;

(3) Ordnance safety areas;

(4) Noise contours of the military installation; and

(5) Other air and ground operational areas identified by the commander of the military installation.

(h) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

~~[(h)]~~ *(i)* Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

~~[(i)]~~ *(j)* Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

~~[(j)]~~ *(k)* Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

~~[(k)]~~ *(l)* Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

~~[(l)]~~ *(m)* Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

~~[(m)]~~ *(n)* School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

~~[(n)]~~ *(o)* Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

~~[(o)]~~ *(p)* Solid waste disposal plan. Showing general plans for the disposal of solid waste.

~~[(p)]~~ *(q)* Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

~~[(q)]~~ *(r)* Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

~~[(r)]~~ *(s)* Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 9. NRS 278.170 is hereby amended to read as follows:

278.170 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ *, 3 and 4,* the commission may prepare and adopt all or any part of the master plan or any subject thereof for all or any part of the city, county or region. Master regional plans must be coordinated with similar plans of adjoining regions, and master county and city plans within each region must be coordinated so as to fit properly into the master plan for the region.

2. ~~[In]~~ *Except as otherwise provided in subsection 4, in* counties whose population is 100,000 or more but less than 400,000, if the commission prepares and adopts less than all subjects of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption, the conservation, housing and population plans described in that section.

3. ~~[In]~~ *Except as otherwise provided in subsection 4, in* counties whose population is 400,000 or more, the commission shall prepare and adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.

4. Upon the request of the commander of a military installation at which 1,000 or more service members are permanently assigned, the commission of the city or county in which the military installation is located shall include in the master plan that it prepares and adopts a military activities plan as provided in NRS 278.160.

Sec. 10. NRS 278.220 is hereby amended to read as follows:

278.220 Except as otherwise provided in ~~[subsection 4]~~ *subsections 4 and 5* of NRS 278.150 and NRS 278.225:

1. Upon receipt of a certified copy of the master plan, or of any part thereof, as adopted by the planning commission, the governing body may adopt such parts thereof as may practicably be applied to the development of the city, county or region for a reasonable period of time next ensuing.

2. The parts must thereupon be endorsed and certified as master plans thus adopted for the territory covered, and are hereby declared to be established to conserve and promote the public health, safety and general welfare.

3. Before adopting any plan or part thereof, the governing body shall hold at least one public hearing thereon, notice of the time and place of which must be published at least once in a newspaper of general circulation in the city or counties at least 10 days before the day of hearing.

4. No change in or addition to the master plan or any part thereof, as adopted by the planning commission, may be made by the governing body in adopting the same until the proposed change or addition has been referred to

the planning commission for a report thereon and an attested copy of the report has been filed with the governing body. Failure of the planning commission so to report within 40 days, or such longer period as may be designated by the governing body, after such reference shall be deemed to be approval of the proposed change or addition.

Sec. 11. *NRS 278.4787 is hereby amended to read as follows:*

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(i)]~~ *(k)* of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

~~[Sec. 7.]~~ *Sec. 12.* ~~[NRS 278.580 is hereby amended to read as follows:~~

~~278.580 1. Subject to the [limitation]~~ *limitations* ~~set forth in NRS 244.368,~~ *and section 5 of this act,* ~~the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.~~

~~2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada or the Nevada System of Higher Education, except that such entities may enter into a contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a~~

~~governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada or the Nevada System of Higher Education.~~

~~3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.~~

~~4. A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of:~~

~~(a) Straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure; and~~

~~(b) Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures,~~

~~* to the extent the local climate allows for the use of such materials, technologies, resources and systems.~~

~~5. The amendments required by subsection 4 may address, without limitation:~~

~~(a) The inclusion of characteristics of land and structures that are most appropriate for the construction and use of systems using solar and wind energy.~~

~~(b) The recognition of any impediments to the development of systems using solar and wind energy.~~

~~(c) The preparation of design standards for the construction, conversion or rehabilitation of new and existing systems using solar and wind energy.~~

~~6. A governing body shall amend its building codes to include:~~

~~(a) The seismic provisions of the International Building Code published by the International Code Council; and~~

~~(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.]~~ *(Deleted by amendment.)*

Sec. 13. *NRS 279.608 is hereby amended to read as follows:*

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must

include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ *(q)* of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ *(q)* of subsection 1 of NRS 278.160 which has been adopted for the community.

~~[Sec. 8.]~~ *Sec. 14.* Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before a purchaser of property that ~~[has been designated as territory in the vicinity of a military installation or a high noise or accident potential zone pursuant to section 3 of this act]~~ is located in an area covered by a military activities plan, as set forth in paragraph (g) of subsection 1 of NRS 278.160, signs a sales agreement, the seller shall, by separate written document, disclose to the purchaser ~~[:~~

~~*(a) The designation of the property as territory in the vicinity of a military installation or as a high noise or accident potential zone, as applicable; and*~~

~~*(b) That the property is subject to the requirements of sections 3, 4 and 5 of this act.]*~~ *information concerning the military activities plan.*

2. The written document required by subsection 1 must contain the following language:

This property is located ~~*[within territory in the vicinity of a military installation and may be subject to the potential for increased noise and accidents.]*~~ *in an area covered by a military activities plan, as set forth in NRS 278.160.*

3. The seller shall ~~*[retain]*~~ *record a copy of the disclosure document that has been signed by the purchaser acknowledging the date of receipt by the purchaser of the original document.*

~~*[4. As used in this section:*~~

~~*(a) "High noise or accident potential zone" has the meaning ascribed to it in section 3 of this act.*~~

~~*(b) "Territory in the vicinity of a military installation" has the meaning ascribed to it in section 2 of this act.]*~~

~~[Sec. 9.]~~ *Sec. 15.* NRS 113.100 is hereby amended to read as follows:

113.100 As used in NRS 113.100 to 113.150, inclusive, *and section* ~~*[8]*~~ *14 of this act,* unless the context otherwise requires:

1. "Defect" means a condition that materially affects the value or use of residential property in an adverse manner.

2. "Disclosure form" means a form that complies with the regulations adopted pursuant to NRS 113.120.

3. "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

4. "Residential property" means any land in this state to which is affixed not less than one nor more than four dwelling units.

5. "Seller" means a person who sells or intends to sell any residential property.

~~[Sec. 10.]~~ *Sec. 16.* ~~[NRS 244.3675 is hereby amended to read as follows:~~

~~244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 5 of this act*, the boards of county commissioners within their respective counties may:~~

~~1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.~~

~~2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees~~

~~do not apply to the State of Nevada or the Nevada System of Higher Education.]~~ *(Deleted by amendment.)*

~~[Sec. 11.]~~ *Sec. 17.* ~~[NRS 268.413 is hereby amended to read as follows:~~

~~268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 5 of this act*, the city council or other governing body of an incorporated city may:~~

~~1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.~~

~~2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.]~~ *(Deleted by amendment.)*

Sec. 18. *The provisions of any military activities plan adopted in a master plan pursuant to subsection 5 of NRS 278.150 or subsection 4 of NRS 278.170, as amended by sections 7 and 9 of this act, respectively, do not apply to any property for which a development agreement has been entered into with a city or county before October 1, 2009, or for which any land use entitlements were granted before October 1, 2009, and to any amendment, modification, extension or addition made to such a development agreement on or after October 1, 2009, or any land use entitlement granted for such property on or after October 1, 2009.*

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee, Schneider, Nolan and Hardy.

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

SENATOR LEE:

Amendment No. 318 to Senate Bill No. 301 deletes sections 1 through 7 and sections 10 and 11 of the bill concerning revisions of certain building codes and special treatment of military installations in local-government master plans.

It includes new language requiring a city or county master plan to include a "military activities plan" at the request of a commander of a military installation at which 1,000 or more service members are assigned.

It makes conforming amendments to the real-estate disclosure provisions in the bill to provide that the disclosure declare that the property to be sold is located in an area covered by a "military activities plan."

It clarifies the applicability of new provisions regarding the "military activities plan" as they relate to existing and future development agreements and land-use entitlements.

SENATOR SCHNEIDER:

This amendment seems innocuous, but it is a dangerous piece of legislation. People from Clark County remember that after the Pacific Engineering Production Company of Nevada explosion in Henderson in the late 1980s, it was determined by Clark County that the industrial and warehouse areas would be moved to the Apex area. All of the developers bought land in the Apex area and developed master plans. They have negotiated with the Union Pacific Railroad, and through those negotiations, they have redesigned the spurs to come off the main line of the railroad for their warehouses. They have negotiated with NDOT for overpasses on I-15. With this, that development for the future use of warehousing in Las Vegas is in jeopardy. By October 1, 2009, all the entitlements must be completed or the land is worthless. We told them

they could buy that land because that is where we wanted development to be. We wanted to have the warehouses in this area where it was a safe area.

This is bad legislation. This just comes sliding through the Senate, and it will upset what Clark County has done in its planning for the future of this State. Apex is in the north where there are power plants. It is north of the speedway. It is an industrial area. All the utilities are out there. The railroad spur is there, and the railroad is needed for warehousing. It has been master planned and it is irresponsible to pass this forward shutting down development in Clark County where we need this warehousing.

The Air Force can fly in and out of there, and they are already making plans at Creech Air Force Base north of Las Vegas in Indian Springs. They know they are going to have to relocate Nellis in the future because the city is encroaching on them. They can still fly their jets out of there, take off heading south, turning north and, then, staying east of I-15. There is no reason to have this legislation. We should not approve this amendment.

SENATOR NOLAN:

Mr. President, it is easy to address the bill and the amendment because the amendment is a complete rewrite of the bill. The Department of Defense and the Department of Navy and Air Force, who maintain large installations in Nevada and employ tens of thousands of civilian employees as well as military families, approached the Legislature and asked for this bill which is now encompassed in the amendment. Because of the amount of growth that is encroaching on our military bases, they felt they should provide additional notification to developers and to potential homebuyers and business buyers about the operations of those military bases.

I agree completely with much of what my colleague said, and this bill does not intentionally prohibit any type of developer or development. What it does is require additional notification and disclosure to those people who are building or who will live in these developments in and around these operations. Specifically, it states the additional notification disclosure on page 6, paragraph (g), "they will require additional notification of ordinances, noise contours at the military installations and ordinance safety areas." What they really want to do with this is to notify people that they are living in an area of operation which may have additional navigation easements, noise insurrections and there are planes flying overhead carrying live ordinance.

I understand how the developers of the Apex development would be concerned about that additional notification. I can see how they might feel that it will threaten their development. We do not want to do that. We see this project at Apex as a potential economic-development boon for southern Nevada. It is essential. We need to work with the developers in the area. This is not just affecting this particular project. This affects Fallon, Nellis and Creech. The people who came to the hearing were developers and contractors, and they went into a subcommittee with the Department of Defense attorneys and with the Navy and the Air Force. There were representatives from all of the local governments, and they sat down with Clark County, Washoe County, North Las Vegas, Esmeralda County and Lyon County to discuss the issue. The amendment came about because of several meetings and several hours of hearings. I have invited the developers of the Apex project because we want to help them and we want to make certain their project is not adversely affected by this. We have asked them to sit down with the other interested parties, and prior to this bill moving to the Assembly, they could sit down and work out their differences with them. I urge the body to vote for the amendment, which is a complete rewrite of the bill.

SENATOR SCHNEIDER:

That explanation does not make me comfortable. The people at Apex were not at the negotiations. People from Fallon and other areas of the State were there, but not the people who were affected by this. You say they have been invited to come and discuss this before this passes this House. This bill has to pass this House tomorrow. There is no way they can come here to negotiate. Something this serious represents the future life-blood of this State. I do not feel comfortable sending it over to the Assembly and hoping they negotiate over there. I do not feel comfortable about the wording on page 6. Nellis might say you only get one person per acre for warehousing, and the warehousing development will shut down if that happens. That is what Nellis wants. They are trying to buy a little time. They do not need this. They can fly their planes east of I-15. I recommend that we do not pass this amendment.

SENATOR HARDY:

I stand in support of this amendment, although, I have grave concerns about the bill. I think the amendment makes the product better than the original bill. This is an issue we spent a lot of time on last session. It was a difficult issue to balance all of the things my colleague from southern Nevada talked about and all of the concerns of the military. We decided that the local governments are responsive to the needs of the military installations and take into account the impact they have when they encroach upon the mission of the military. Ultimately, we decided to do some limited things. I would hate to see the amendment fail because the amendment does make the bill better than the original. I will support the amendment, but I have concerns with the bill.

SENATOR NOLAN:

The military's public testimony stated they wanted to work with the various developers. I do not know why the people from Apex, who have a number of civic and business leaders involved in that project, did not have representatives there. Page 13, section 18, states, "the provisions of the bill do not apply to any property for which a development agreement has been entered into with a city or a county on or before October 1, 2009," which would include Apex. I have heard concerns from people who were only looking at the original version of the bill. Some of the confusion may be because people have not seen the amendment. Nowhere in the amendment does it say that projects are limited to one person per acre.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 361.

Bill read second time.

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

Amendment No. 292.

"SUMMARY—Revises provisions relating to employee leasing companies. (BDR 53-1125)"

"AN ACT relating to employee leasing companies; authorizing the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations relating to a third party that may act on behalf of an employee leasing company; providing various means for an employee leasing company and its clients to provide workers' compensation coverage; requiring employee leasing companies to pay an annual registration fee; requiring employee leasing companies to submit certain audited financial statements; *providing the means by which an employee of an employee leasing company may notify a supervisor of an injury for the purposes of industrial insurance;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations to allow an employee leasing company to enter into an agreement with ~~[a person]~~ *an assurance organization* to act on its behalf with regard to certain regulatory provisions.

Section 4 of this bill provides for the ways that an employee leasing company and its clients may satisfy the requirement to obtain workers'

compensation coverage for their employees. Sections 9 and 10 of this bill make changes consistent with the provisions of section 4.

Section 7 of this bill requires an employee leasing company to pay a fee for the issuance or renewal of its certificate of registration.

Section 8 of this bill requires an employee leasing company to provide certain financial statements along with its application for the issuance or renewal of a certificate of registration.

Sections 13.2-13.8 of this bill provide for the ways than an employee of an employee leasing company may notify a supervisor of an injury for industrial insurance purposes.

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

Section 1. NRS 616A.465 is hereby amended to read as follows:

616A.465 1. Except as otherwise provided in this section, the Division shall:

(a) Regulate insurers pursuant to chapters 616A to 617, inclusive, of NRS;

(b) Investigate insurers regarding compliance with statutes and the Division's regulations;

(c) Determine whether an employee leasing company is entitled to a certificate of registration pursuant to NRS 616B.673; and

(d) Regulate employee leasing companies pursuant to the provisions of NRS 616B.670 to 616B.697, inclusive ~~[.]~~ *, and sections 3 and 4 of this act.*

2. The Commissioner is responsible for reviewing rates, investigating the solvency of insurers, authorizing private carriers pursuant to chapter 680A of NRS and certifying:

(a) Self-insured employers pursuant to NRS 616B.300 to 616B.330, inclusive, and 616B.336;

(b) Associations of self-insured public or private employers pursuant to NRS 616B.350 to 616B.446, inclusive; and

(c) Third-party administrators pursuant to chapter 683A of NRS.

3. The Department of Administration is responsible for contested claims relating to industrial insurance pursuant to NRS 616C.310 to 616C.385, inclusive. The Administrator is responsible for administrative appeals pursuant to NRS 616B.215.

4. The Nevada Attorney for Injured Workers is responsible for legal representation of claimants pursuant to NRS 616A.435 to 616A.460, inclusive, and 616D.120.

5. The Division is responsible for the investigation of complaints. If a complaint is filed with the Division, the Administrator shall cause to be conducted an investigation which includes a review of relevant records and interviews of affected persons. If the Administrator determines that a violation may have occurred, the Administrator shall proceed in accordance with the provisions of NRS 616D.120 and 616D.130.

6. As used in this section, "employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 2. Chapter 616B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *1. The Administrator may adopt regulations authorizing and setting forth qualifications for ~~[a person]~~ an assurance organization selected by an employee leasing company to act on behalf of the employee leasing company in complying with the requirements of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act and any regulations adopted pursuant thereto, including, without limitation, any requirements regarding obtaining or renewing a certificate of registration. Such ~~[a person]~~ an assurance organization must be independent of the employee leasing company and approved by the Administrator.*

2. Nothing in this section or any regulations adopted pursuant thereto:

(a) Limits or otherwise affects the authority of the Administrator to issue or revoke a certificate of registration of an employee leasing company ~~[,]~~ subject to the appeals process;

(b) Limits or otherwise affects the authority of the Administrator to investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act and any regulations adopted pursuant thereto; or

(c) Requires an employee leasing company to authorize ~~[a person]~~ an assurance organization to act on its behalf.

3. As used in this section, "assurance organization" means a person who meets the qualifications set forth by the Administrator pursuant to regulations adopted pursuant to subsection 1.

Sec. 4. *1. An employee leasing company may satisfy its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company by:*

(a) Confirming that the client company has obtained a policy of workers' compensation insurance directly from an insurer, and maintains that policy, which covers all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~[,]~~ for the purpose of providing coverage for workers' compensation;

(b) Confirming that the client company is a member of an association of self-insured employers which is certified by the Commissioner and which has assumed responsibility, and maintains responsibility, for covering all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~[,]~~ for the purpose of providing coverage for workers' compensation;

(c) Confirming that the client company is certified by the Commissioner as a self-insured employer which self-insures all of the employees of the client company, including, without limitation, the employees leased from the

employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~[;]~~ for the purpose of providing coverage for workers' compensation;

(d) Obtaining a policy of workers' compensation insurance directly from an insurer ~~[,]~~ on a multiple coordinated policy basis, and maintaining that policy, which covers all of the employees leased to the client company or all of the employees leased to the client company and other client companies affiliated with the client company such that:

(1) The policy covers the liability of both the employee leasing company and the client company or companies for payments required by chapters 616A to 616D, inclusive, or chapter 617 of NRS; ~~[and]~~

(2) A separate policy is issued to or on behalf of each client company or group of affiliated client companies under the multiple coordinated policy; and

(3) The employee leasing company controls payments and communications related to the policy; or

(e) Obtaining a policy of workers' compensation insurance on a master policy basis directly from an insurer, and maintaining that policy, which : ~~[covers:]~~

(1) ~~[All]~~ Covers some or all of the employees of the employee leasing company who are leased to ~~[the]~~ one or more client ~~[company;]~~ companies; and

(2) ~~[All]~~ May cover all of the employees of the employee leasing company who work directly for the employee leasing company and are not leased to any client company . ~~[; and~~

~~(3) Some or all of the employees of the employee leasing company who are leased to other client companies.]~~

2. With respect to a policy of workers' compensation insurance described in paragraph (a) of subsection 1:

(a) The policy may name the employee leasing company as an additional insured; and

(b) If the employee leasing company is licensed as a producer of insurance pursuant to NRS 683A.261 and is authorized by the insurer, the employee leasing company may negotiate coverage, collect premiums on behalf of the insurer and otherwise act as an intermediary with respect to the policy.

3. If an employee leasing company or a client company maintains a policy of workers' compensation insurance which provides coverage for leased employees, each insurer insuring leased employees shall report to the ~~[Commissioner:]~~ Advisory Organization, as defined in NRS 686B.1752:

(a) Payroll and claims data for each client company in a manner that identifies both the client company and the employee leasing company; and

(b) The status of coverage with respect to each client company in accordance with any applicable requirements regarding proof of coverage.

4. If the services that an employee leasing company offers to a client company do not include obtaining and maintaining a policy of workers' compensation insurance for the employees which the employee leasing company will lease to the client company, the employee leasing company shall:

(a) Before entering into an agreement with the client company to provide services as an employee leasing company, provide written notice to the client company that the client company will remain responsible for providing coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company; and

(b) In the written agreement with the client company to provide services as an employee leasing company, clearly set forth the responsibility of the client company to provide coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company.

5. If an employee leasing company offers to provide coverage for workers' compensation for the employees that the employee leasing company leases to a client company in accordance with paragraph (d) or (e) of subsection 1:

(a) The coverage for workers' compensation must not take effect until the client company executes the written agreement required by NRS 616B.688 between the employee leasing company and the client company; and

(b) The written agreement required by NRS 616B.688 between the employee leasing company and the client company must:

(1) Explain that coverage for workers' compensation does not take effect until the effective date designated by the insurer in the policy of workers' compensation insurance;

(2) Provide that, while the policy of workers' compensation insurance is in force, the employee leasing company will pay all premiums required by the policy, including, without limitation, any adjustments or assessments, and will be entitled to any refunds of premiums;

(3) Set forth the procedures by which the client company or the employee leasing company may terminate the agreement and any fees or costs payable upon termination;

(4) Provide that, except as otherwise provided by law, all services provided by the employee leasing company to the client company will cease immediately on the effective date of any termination of the agreement;

(5) Provide that the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company has the right to inspect the premises and records of the client company;

(6) Provide that the loss experience of the client company will continue to be reported in the name of the client company to the Commissioner and will be available to subsequent insurers upon request;

(7) Provide that the policy of workers' compensation insurance covers only those employees acknowledged in writing by the employee leasing company to be employees of the employee leasing company who are being leased to the client company;

(8) Explain that the client company is responsible at all times for providing coverage for workers' compensation for any employees of the client company who are not leased from the employee leasing company; and

(9) Provide that the client company must provide satisfactory evidence of the coverage required by subparagraph (8) to the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company.

6. Nothing in this section prohibits the employees of an employee leasing company who are leased to one or more client companies from being considered as a group for the purposes of any eligibility for dividends, discounts on premiums, rating arrangements or options or obtaining policies with large deductibles.

7. The exclusive remedy provided by NRS 616A.020 applies to the employee leasing company, the client company and to all employees of the client company, including, without limitation, the employees leased from the employee leasing company, whether the employee leasing company or the client company provides the coverage for workers' compensation.

8. The Administrator and the Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 5. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act,* unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* to operate an employee leasing company.

2. "Client company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.

3. "Employee leasing company" means a company which, pursuant to a written or oral agreement:

(a) Places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company on a regular basis without any limitation on the duration of their employment; or

(b) Leases to a client company:

(1) Five or more part-time or full-time employees; or

(2) Ten percent or more of the total number of employees within a classification of risk established by the Commissioner.

Sec. 6. NRS 616B.673 is hereby amended to read as follows:

616B.673 1. A person shall not operate an employee leasing company in this State unless he has complied with the provisions of NRS 616B.670 to 616B.697, inclusive ~~[.]~~ *, and sections 3 and 4 of this act.* The Administrator

shall issue a certificate of registration to each applicant who complies with the provisions of NRS 616B.670 to 616B.697, inclusive ~~.~~ *, and sections 3 and 4 of this act.*

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each certificate of registration issued by the Administrator pursuant to NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* expires 1 year after it is issued unless renewed before that date.

Sec. 7. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of NRS 360.780.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) *A registration or renewal fee of $500.*

(i) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive ~~.~~ *, and sections 3 and 4 of this act.*

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice

must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 8. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of NRS 360.780.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) *A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:*

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement of the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of $500.

~~[(i)]~~ *(j)* Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee

leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. An employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. Each financial statement must:

(a) Indicate that the applicant has maintained positive working capital, as defined by generally accepted accounting principles, throughout the period covered by the financial statement; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital plus $100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designed by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

Sec. 9. NRS 616B.682 is hereby amended to read as follows:

616B.682 Each employee leasing company operating in this State shall:

1. Maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and written agreements with client companies.

2. Maintain at that office or similar site in this State records establishing that the employee leasing company ~~[maintains]~~ *:*

(a) Maintains current policies of workers' compensation insurance providing coverage for each employee it leases to each client company ~~[.]~~ *; or*

(b) Pursuant to section 4 of this act, otherwise satisfies its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company.

3. Keep the records described in subsection 2 open for inspection and copying, during its regular business hours, by:

(a) Each employee it leases to each client company and any representative of each such employee; and

(b) The public.

Sec. 10. NRS 616B.685 is hereby amended to read as follows:

616B.685 If a person operates an employee leasing company and a temporary employment service in this State, the person ~~[shall maintain]~~ *:*

1. Shall maintain separate payroll records for the company and the service. The records must be maintained in this State. ~~[A separate]~~

2. Shall not maintain a policy of workers' compensation insurance ~~[must be maintained for]~~ *which covers both employees of* the employee leasing company ~~[.]~~ *and employees of the temporary employment service.*

Sec. 11. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* shall be deemed to be the employer of the employees it leases to a client company.

2. If an employee leasing company complies with the provisions of subsection 3, the employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

3. An employee leasing company shall not offer its employees any self-funded industrial insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS.

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 12. NRS 616B.694 is hereby amended to read as follows:

616B.694 The Administrator may adopt regulations to carry out the provisions of NRS 616B.670 to 616B.697, inclusive ~~[.]~~ *, and sections 3 and 4 of this act.*

Sec. 13. NRS 616B.697 is hereby amended to read as follows:

616B.697 An action for damages caused by the failure of an employee leasing company to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* may be brought against any person who is required to sign the application for a certificate of registration for the employee leasing company.

Sec. 13.2. NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer shall:

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

(b) If the employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. From among the names furnished by the employer pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but the employer shall not require the employee to select a particular physician or chiropractor from among the names furnished by the employer. Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning his physical condition except as required by NRS 616C.177.

4. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

5. This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after medical attention which is required immediately has been completed.

6. An employee leasing company must provide to each employee covered under an employee leasing contract instructions on how to notify the leasing

company supervisor and client company of an injury in plain, clear language placed in conspicuous type in a specifically labeled area of instructions given to the employee.

Sec. 13.5. NRS 616C.015 is hereby amended to read as follows:

616C.015 1. An employee or, in the event of the employee's death, one of his dependents, shall provide written notice of an injury that arose out of and in the course of employment to the employer of the employee as soon as practicable, but within 7 days after the accident.

2. The notice required by subsection 1 must:

(a) Be on a form prescribed by the Administrator. The form must allow the injured employee or his dependent to describe briefly the accident that caused the injury or death.

(b) Be signed by the injured employee or by a person on his behalf, or in the event of the employee's death, by one of his dependents or by a person acting on behalf of the dependent.

(c) Include an explanation of the procedure for filing a claim for compensation.

(d) Be prepared in duplicate so that the injured employee or his dependent and the employer can retain a copy of the notice.

3. Upon receipt of the notice required by subsection 1, the employer, the injured employee's supervisor or the agent of the employer who was in charge of the type of work or the area where the accident occurred shall sign the notice. The signature of the employer, the supervisor or the employer's agent is an acknowledgment of the receipt of the notice and shall not be deemed to be a waiver of any of the employer's defenses or rights.

4. An employer shall maintain a sufficient supply of the forms required to file the notice required by subsection 1 for use by his employees.

5. An employer shall retain any notice provided pursuant to subsection 1 for 3 years after the date of the accident. An employer insured by a private carrier shall not file a notice of injury with the private carrier.

6. The claim of a leased employee is not barred if he gives notice to his client company supervisor, rather than to his leasing company supervisor. Notification of an injury by a leased employee to his client company supervisor shall be deemed sufficient notice of injury to the employer.

Sec. 13.8. NRS 616D.120 is hereby amended to read as follows:

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator*,* ~~[or]~~ employer *or employee leasing company* has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165; or

(h) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

➥ the Administrator shall impose an administrative fine of $1,500 for each initial violation, or a fine of $15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator , ~~[or]~~ employer *or employee leasing company* has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

➥ The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).

➥ The fine imposed must not be greater than $375 for an initial violation, or more than $1,500 for any second or subsequent violation.

(c) Order a plan of corrective action to be submitted to the Administrator within 30 days after the date of the order.

3. If the Administrator determines that a violation of any of the provisions of paragraphs (a) to (e), inclusive, or (h) of subsection 1 has occurred, the Administrator shall order the insurer, organization for managed care, health care provider, third-party administrator, ~~[or]~~ employer *or employee leasing company* to pay to the claimant a benefit penalty:

(a) Except as otherwise provided in paragraph (b), in an amount that is not less than $5,000 and not greater than $37,500; or

(b) Of $3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than $500 or which is not more than 14 days late.

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) or (h) of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties, other than a benefit penalty described in paragraph (b) of subsection 3, previously imposed against the insurer, organization for managed care, health care provider, third-party administrator, ~~[or]~~ employer *or employee leasing company* pursuant to this section. If this is the third violation within 5 years for which a benefit penalty, other than a benefit penalty described in paragraph (b) of subsection 3, has been imposed against the insurer, organization for managed care, health care provider, third-party administrator, ~~[or]~~ employer ~~[,]~~ *or employee leasing company,* the Administrator shall also consider the degree of economic harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) or (h) of subsection 1.

Except as otherwise provided in this section, the benefit penalty is for the benefit of the claimant and must be paid directly to him within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and he dies before the benefit penalty is paid to him, the benefit penalty must be paid to his estate. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of his determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to this subsection.

5. In addition to any fine or benefit penalty imposed pursuant to this section, the Administrator may assess against an insurer who violates any regulation concerning the reporting of claims expenditures or premiums received that are used to calculate an assessment, an administrative penalty of up to twice the amount of any underpaid assessment.

6. If:

(a) The Administrator determines that a person has violated any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation,

➥ the Administrator shall impose an administrative fine of not more than $15,000.

7. Two or more fines of $1,000 or more imposed in 1 year for acts enumerated in subsection 1 must be considered by the Commissioner as evidence for the withdrawal of:

(a) A certificate to act as a self-insured employer.

(b) A certificate to act as an association of self-insured public or private employers.

(c) A certificate of registration as a third-party administrator.

8. The Commissioner may, without complying with the provisions of NRS 616B.327 or 616B.431, withdraw the certification of a self-insured employer, association of self-insured public or private employers or third-party administrator if, after a hearing, it is shown that the self-insured employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.

9. If the Administrator determines that a vocational rehabilitation counselor has violated the provisions of NRS 616C.543, the Administrator may impose an administrative fine on the vocational rehabilitation counselor of not more than $250 for a first violation, $500 for a second violation and $1,000 for a third or subsequent violation.

Sec. 14. 1. This section and sections 1 to 7, inclusive, and 9 to ~~[13,]~~*13.8,* inclusive, of this act become effective on October 1, 2009.

2. Section 8 of this act becomes effective on January 1, 2010.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment provides that a leased employee who notifies the supervisor at the job site of an injury has fulfilled the requirement that the employer has been notified for purposes of workers' compensation. The amendment also allows an assurance organization to act on behalf of an employee-leasing company, and provides that employee-leasing companies are subject to fines and benefits penalties for violations of industrial-insurance laws.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 363.

Bill read second time.

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

Amendment No. 290.

"SUMMARY—Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. (BDR 53-1130)"

"AN ACT relating to industrial insurance; authorizing the surviving spouse of a deceased employee to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill revises provisions relating to the death benefit that is paid to the surviving spouse of an employee under industrial insurance to eliminate the requirement that death benefit payments cease upon the remarriage of the surviving spouse. (NRS 616C.505)

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

Section 1. NRS 616C.070 is hereby amended to read as follows:

616C.070 1. A person is conclusively presumed to be totally dependent upon an injured or deceased employee if:

(a) The person is a natural, posthumous or adopted child, whether legitimate or illegitimate, under the age of 18 years; or

(b) The person is a natural, posthumous or adopted child, there is no surviving parent and the person is:

(1) Over the age of 18 years and physically or mentally incapacitated from wage earning; or

(2) Over the age of 18 years but under the age of 22 years and enrolled as a full-time student in an accredited vocational or educational institution.

2. Stepparents may be regarded in chapters 616A to 616D, inclusive, or chapter 617 of NRS as parents if the fact of dependency is shown, and a stepchild or stepchildren may be regarded in chapters 616A to 616D,

inclusive, or chapter 617 of NRS as a natural child or children if the existence and fact of dependency are shown.

3. Except as otherwise provided in subsection ~~[14]~~ *13* of NRS 616C.505, questions as to who constitute dependents and the extent of their dependency must be determined as of the date of the accident or injury to the employee, and their right to any benefit becomes fixed at that time, irrespective of any subsequent change in conditions, and the benefits are directly recoverable by and payable to the dependent or dependents entitled thereto or to their legal guardians or trustees.

4. The presumptions of this section do not apply in favor of aliens who are nonresidents of the United States at the time of the accident, injury to, or death of the employee.

Sec. 2. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed $5,000. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3 , ~~[and NRS 616C.507,]~~ to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death . ~~[or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.]~~

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until his death *;* ~~[or remarriage, with 2 years' compensation payable in one lump sum upon remarriage;]~~ and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, his proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection ~~[12,]~~ *11,* if the child has a guardian, the compensation he is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection ~~[12,]~~ *11*, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. ~~[Upon the remarriage of a surviving spouse with children:~~

~~(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and~~

~~(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.~~

~~➥ The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of NRS 616C.507 apply to the surviving spouse.~~

~~6.]~~ If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of 66 2/3 percent of the average monthly wage for his support.

~~[7.]~~ *6.* Except as otherwise provided in subsection ~~[8,]~~ *7*, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of 66 2/3 percent of the average monthly wage.

~~[8.]~~ *7.* The aggregate compensation payable pursuant to subsection ~~[7]~~ *6* must not exceed 66 2/3 percent of the average monthly wage.

~~[9.]~~ *8.* In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

~~[10.]~~ *9.* Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer

may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

~~[11.]~~ *10.* In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed $5,000.

~~[12.]~~ *11.* If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of $3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection ~~[13]~~ *12* is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

~~[13.]~~ *12.* Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

~~[14.]~~ *13.* As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 3. NRS 616C.507 is hereby repealed.

Sec. 4. *1.* The amendatory provisions of section 2 of this act do not apply to a surviving spouse if the surviving spouse is remarried before October 1, ~~[2009.]~~ *2007.*

2. If a surviving spouse is remarried between October 1, 2007, and September 30, 2009, inclusive and, because of the remarriage and pursuant to NRS 616C.505, he has received payment of a lump sum and his monthly benefits have ceased:

(a) The Division of Industrial Relations of the Department of Business and Industry shall calculate the amount of a payment that the surviving spouse could make, on what date the surviving spouse's monthly benefits could recommence, for what period and by what amount the surviving spouse' monthly benefits could be reduced and various combinations thereof, so that by October 1, 2011, the surviving spouse would be in the same position as if he had not received a lump sum and his monthly benefits had not ceased. Notwithstanding the provisions of NRS 616C.505 or the amendatory provisions of this act, the Division shall contact the surviving spouse, present various options derived from the calculations required by this paragraph and arrange for the recommencement of the surviving spouse's monthly benefits in such a manner as to leave the surviving spouse, by October 1, 2011, in the same position as if he had not received a lump sum and his monthly benefits had not ceased. Nothing in this paragraph requires a surviving spouse to make a payment of any amount.

(b) Any monthly benefits being paid to a child pursuant to NRS 616C.505 because of the remarriage must cease. Those monthly benefits are not required to be repaid. Any other benefits to which the child may be entitled must not be reduced or adjusted to account for any monthly benefits paid to the child pursuant to NRS 616C.505 because of the remarriage.

TEXT OF REPEALED SECTION

616C.507 Duration of compensation for surviving spouse of police officer or firefighter.

1. Except as otherwise provided in this section, if the surviving spouse of a deceased police officer or firefighter who died while actively employed as a police officer or firefighter is entitled to be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487, the surviving spouse:

(a) Must be paid that compensation until the death of the surviving spouse, whether or not the surviving spouse remarries; and

(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 in one lump sum upon remarriage.

2. A surviving spouse of a deceased police officer or firefighter who was retired from employment as a police officer or firefighter at the time of death is entitled to receive compensation to the same extent and in the same manner as a surviving spouse specified in subsection 1 if:

(a) The police officer or firefighter retired because of the injury or occupational disease for which compensation is paid to the surviving spouse pursuant to this section; and

(b) The death of the police officer or firefighter was the direct and proximate result of the injury or occupational disease.

3. If the surviving spouse of a deceased police officer or firefighter specified in subsection 1 or 2 becomes the spouse of another employee or retiree who thereafter dies under circumstances that would otherwise entitle

the surviving spouse to be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee, the surviving spouse:

(a) Must not be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee; and

(b) Shall be deemed to have predeceased the other employee for the purposes of chapters 616A to 616D, inclusive, and 617 of NRS.

4. Except as otherwise provided in subsections 1 and 2, the provisions of this section do not affect any compensation payable under chapter 617 of NRS.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Horsford, Cegavske and Hardy.

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

SENATOR CARLTON:

Under this bill, Amendment No. 290 to Senate Bill No. 363 provides that the benefits awarded to a surviving spouse of an injured worker apply to a surviving spouse who has not remarried prior to October 1, 2007. The amendment also provides for a regulatory process to determine the amount of any benefits due to surviving spouses remarried between October 1, 2007, and September 30, 2009.

Last session, we passed a bill that allowed for this benefit to be provided to police and fire personnel. The committee has gone back to that day and allowed that benefit to apply to everyone within the workers' compensation system.

SENATOR HORSFORD:

Can you restate the issue as to why the retroactive provision in section 4 is there?

SENATOR CARLTON:

Section 4 is the retroactive provision going back to October 1, 2007. That was the date we originally gave the benefit to the police and fire personnel. Rather than go back all the way, we just went back to the original date that the original benefit was changed so that everyone would be treated equally.

SENATOR CEGAVSKE:

With the amendment, does it change the fiscal note? Does it increase it? I see one for the bill before the amendment but not after.

SENATOR CARLTON:

It is my belief that it will decrease because the original bill had retroactivity going farther back. That was a mistake that was made in my explanation when asking for the bill draft. It would change the fiscal note to make it smaller once the amendment is adopted; then, they establish the new fiscal note. Then, the determination is made as to whether the bill goes to Senate Finance or not.

SENATOR HARDY:

We did ask that question in committee about the fiscal impact. Though there is a fiscal impact, they do not expect it to be a large impact because they are already actuarially accounted for. There is no way to know if someone is going to remarry.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 385.

Bill read second time.

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

Amendment No. 455.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-279)"

"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; repealing the Subcommittee on Charter Schools of the State Board of Education; 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 17-27 of this bill create the Nevada Charter School Institute and prescribe the membership of the Charter School Institute. Section 30 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. (NRS 386.515) Sections 35 and 41 of this bill authorize the Nevada Charter School Institute to adopt regulations relating to charter schools and eliminates the authority of the Department of Education and the State Board of Education to adopt regulations relating to charter schools. (NRS 386.540, 386.578) *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. (NRS 385.347)* Sections 50 and 51 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 52 of this bill requires the members of the Charter School Institute to be appointed. Section 55 of this bill transfers the sponsorship of all State Board-sponsored charter schools to the Nevada Charter School Institute.

Section 47 of this bill repeals the Subcommittee on Charter Schools of the State Board of Education. (NRS 386.507)

~~[Section 27 of this bill creates the Account for the Nevada Charter School Institute and authorizes the Institute to accept gifts, grants and bequests for deposit in the Account. Section 48 of this bill requires the Interim Finance Committee, upon request of the Superintendent of Public Instruction, to determine if a sufficient amount of money has been deposited in the Account for the Nevada Charter School Institute to establish and operate the Institute. If the Interim Finance Committee makes such a determination, the provisions of this bill creating the Nevada Charter School Institute and setting forth its duties and responsibilities will become effective.]~~

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] ~~*[Nevada Charter School Institute* 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. ~~[, including, without limitation, each charter school in the district.]~~ If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including ~~[:~~

~~(1) Any]~~ *any* special programs for pupils at an individual school. ~~[; and~~

~~(2) The curriculum used by each charter school in the district.]~~

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~

(2) For each elementary school, middle school and junior high school in the district, ~~[including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school,]~~ information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in 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 ~~[or charter school]~~ in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school ~~[, including, without limitation, each charter school,]~~ and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who received:

(1) A standard high school diploma, 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 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.] *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.] *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.] *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.

[8.] *(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 the 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.*

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) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee; and

(5) ~~*[(6)]*~~ 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.~~

~~9.]~~ *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.*

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 ~~[.~~

~~10.]~~ *or 3, as applicable.*

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 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) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee;

(5) ~~*[(6)]*~~ Bureau; and

(6) ~~*[(7)]*~~ Schools within the school district ~~[.]~~ *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] ~~[*Nevada Charter School Institute* and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

Sec. 3.3. *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 the Nevada Charter School Institute, as applicable.*

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. 3.5. 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 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 Nevada Charter School Institute.*

(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 Nevada Charter School Institute shall ensure that each summary of a charter school is posted on the Internet website maintained by the charter school, if any, or the Internet website maintained by the Institute, if any.* If the summary is not posted on the website of the school , ~~[or]~~ the school district ~~[,]~~ *or the Nevada Charter School Institute, as applicable,* the school district *or the Nevada Charter School Institute, 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. 3.7. 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. 4. 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]~~ *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. 5. 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. 6. 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. 7. 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. 8. 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. 9. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils

enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) *Sponsored by the 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. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) *For a charter school sponsored by the 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 establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

Sec. 11. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 *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, the Department]~~ *Nevada Charter School Institute, the 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. 11.5. *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.

(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 for a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Nevada Charter School Institute;

(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. 12. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) *Sponsored by the 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. 13. 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. 14. 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. 15. 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. 16. 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 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 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. 16.5. 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. 17. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27, inclusive, of this act.

Sec. 18. *As used in NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 19 and 20 of this act have the meanings ascribed to them in those sections.*

Sec. 19. *"Charter School Institute" means the Nevada Charter School Institute created by section 21 of this act.*

Sec. 20. *"Director" means the Director of the Charter School Institute.*

Sec. 21. *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. 22. *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. 23. *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. 24. *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. 25. *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 assure 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. 26. *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 18 to 27, inclusive, of this act.*

Sec. 27. *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. 28. 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. 29. 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. 30. 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.

Sec. 31. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. Before a committee to form a charter school may submit an application to the board of trustees of a school district, the ~~[Subcommittee on Charter Schools, 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 sections 18 to 27, 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. The Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 32. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon approval of an application by the Department, a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ *the 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,]~~ *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 18 to 27, 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 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]~~ *Charter School Institute* receives an application pursuant to subsection 1 or 4, it shall hold a meeting to consider the application. The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ *Charter School Institute* shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.~~

~~6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board]~~ *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 an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ *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. 33. 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 ~~[:~~

~~(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 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 18 to 27, inclusive, of this act*, and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently 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.

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. 34. 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. 35. 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]~~ *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.

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 18 to 27, 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 18 to 27, inclusive, of this act,* including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(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. 36. NRS 386.547 is hereby amended to read as follows:

386.547 The ~~[State Board]~~ *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. 37. 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 the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~[Department]~~ *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. 38. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the ~~[board of trustees of the school district if 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 ~~[:~~

~~(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 Charter School Institute is the sponsor of a charter school, the amount of money that may be paid to the Institute pursuant to subsection 3 for administrative expenses in 1 school year must not exceed]*~~ *2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.*

~~[*5. If]~~ ~~[the State Board or]~~ ~~[a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the]~~ ~~[Department or to the]~~ ~~[institution]~~ ~~[, as applicable,]~~ ~~[pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.]~~

~~[5.]~~ ~~*[6.]*~~ *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.]~~ ~~*[7.]*~~ *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.]~~ ~~*[8.]*~~ *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.

~~[8.]~~ ~~*[9.]*~~ *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. 39. 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. 40. 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. 41. 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 subsection 3 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. 41.5. 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]~~ *Nevada Charter School Institute* for inclusion in the report of the ~~[school district]~~ *Institute* pursuant to that section. The information must be submitted by the charter school in a format prescribed by the ~~[board of trustees.]~~ *Nevada 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 charter schools pursuant to this section and NRS 385.357, consult with the *Nevada Charter School Institute and the* governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 42. 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. 42.5. *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. 43. 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. 44. 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. 45. 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. 46. 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]~~ *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. 46.3. *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 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. 46.7. *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. 47. NRS 386.507 is hereby repealed.

Sec. 48. ~~[1. Until the date on which the Director of the Nevada Charter School Institute is appointed pursuant to section 50 of this act, the Superintendent of Public Instruction shall administer the Account for the Nevada Charter School Institute created by section 27 of this act, including, without limitation, soliciting and accepting gifts, grants and bequests for deposit in the Account.~~

~~2. The Superintendent of Public Instruction shall periodically review the balance of money in the Account for the Nevada Charter School Institute and shall provide written notice to the Interim Finance Committee if, in the determination of the Superintendent, a sufficient amount of money has been deposited in the Account to establish and operate the Nevada Charter School Institute created by section 21 of this act. The Interim Finance Committee is not bound by the determination or recommendation of the Superintendent.~~

~~3. Upon receiving notice pursuant to subsection 2, the Interim Finance Committee shall independently determine whether a sufficient amount of money has been deposited in the Account for the Nevada Charter School Institute to establish and operate the Nevada Charter School Institute created by section 21 of this act. If the Interim Finance Committee determines that the balance in the Account is sufficient, the Committee shall, by resolution, set forth its finding of sufficiency.~~

~~4. If the Superintendent of Public Instruction has not provided written notice to the Interim Finance Committee pursuant to subsection 2 on or before June 30, 2010, the Superintendent shall, on or before July 1, 2010, submit a report to the Legislative Committee on Education which sets forth the balance of money in the Account for the Nevada Charter School Institute.~~

~~5. If the Superintendent of Public Instruction has not provided written notice to the Interim Finance Committee pursuant to subsection 2 on or before February 1, 2011, the Superintendent shall, on or before February 15, 2011, submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature which sets forth the balance of money in the Account for the Nevada Charter School Institute.]~~ *(Deleted by amendment.)*

Sec. 49. ~~[If the Interim Finance Committee issues a resolution pursuant to section 48 of this act, within 60 days after the resolution is issued, the]~~ *The* Department of Education shall *, on or before October 1, 2009,* transfer to the Account for the Nevada Charter School Institute created by section 27 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. 50. Notwithstanding the provisions of section 23 of this act to the contrary, ~~[if the Interim Finance Committee issues a resolution pursuant to section 48 of this act, within 30 days after the resolution is issued, the]~~ *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 23 of this act.

Sec. 51. 1. ~~[If a Director of the Nevada Charter School Institute is appointed pursuant to section 50 of this act, to]~~ *To* assist the Nevada Charter School Institute created by section 21 of this act in carrying out its duties and responsibilities, the Director shall ~~[:]~~ *on January 1, 2010:*

(a) Hire an administrative assistant and an accounting assistant; and

(b) Hire an educational consultant.

2. ~~[If the Interim Finance Committee issues a resolution pursuant to section 48 of this act, within 30 days after the resolution is issued, one]~~ *On January 1, 2010, 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. 52. ~~[If the Interim Finance Committee issues a resolution pursuant to section 48 of this act, within 30 days after the resolution is issued, the members of the Nevada Charter School Institute must be appointed. Each appointing authority shall work in consultation to ensure that the initial terms of the members are staggered. For the initial selection, 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 pursuant to paragraph (d) of subsection 1 of section 21 of this act. Upon the expiration of the term of a member or if a vacancy occurs before the expiration of the term, the vacancy must be filled by the appointing authority pursuant to section 21 of this act.]~~ *(Deleted by amendment.)*

Sec. 52.5. On or before January 1, 2010, the members of the Nevada Charter School Institute created by section 21 of this act shall be appointed to terms commencing on January 1, 2010, 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. 53. 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 to 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. 54. ~~[If a Director of the Nevada Charter School Institute is appointed pursuant to section 50 of this act, any]~~ *Any* regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before ~~[the date of that appointment]~~ *January 1, 2010,* remain in effect and may be enforced by the Nevada Charter School Institute created by section 21 of this act until the Institute adopts regulations to repeal or replace those regulations.

Sec. 55. ~~[If the Interim Finance Committee issues a resolution pursuant to section 48 of this act, a]~~ *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 commencing on ~~[the date on which all the members of the Nevada Charter School Institute are appointed pursuant to section 52 of this act]~~ *January 1, 2010,* and the written charter of the charter school shall remain 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.

Sec. 56. 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. 57. 1. This section and sections *2*, 17, 27 and 48 of this act become effective upon passage and approval.

2. Sections 1 , 3 to ~~[16,]~~ *16.5*, inclusive, 18 to 26, inclusive, 28 to 47, inclusive, and 49 to 56, inclusive, of this act become effective ~~[upon the date on which the Interim Finance Committee issues a resolution pursuant to section 48 of this act declaring that the balance of money in the Account for the Nevada Charter School Institute created by section 47 of this act is sufficient to establish and operate the Nevada Charter School Institute created by section 21 of this act.]~~ *on October 1, 2009.*

3. Sections 43, 44 and 45 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.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

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

Thank you, Mr. President. The amendment specifies that the National Charter School Institute (NCSI) shall prepare an annual report of accountability for all of the charter schools in Nevada.

It specifies that a charter school sponsored by school districts or higher education may change its sponsorship to the NCSI but need not submit a new application. It requires an administrative fee of 2 percent for all charter schools, regardless of the sponsor and revises the start date for the NCSI to on or before October 1, 2009.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 389.

Bill read second time.

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

Amendment No. 456.

"SUMMARY—Revises provisions governing accountability in public schools. (BDR 34-807)"

"AN ACT relating to education; revising provisions governing public schools that are designated as demonstrating need for improvement; revising other provisions related to the accountability of public schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a "Title I school" is a public school that receives money pursuant to the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and is obligated to comply with the provisions of that federal law. (NRS 385.3746) Existing law requires each public school to be designated annually as demonstrating exemplary achievement, high achievement, adequate achievement or need for improvement. (NRS 385.3263, 385.3266) Under existing law, if a school is designated as demonstrating need for improvement for 2 or more consecutive years, increasingly progressive actions must be taken to improve the achievement of pupils enrolled at the school. (NRS 385.3455-385.391)

Under existing law, if a school is designated as demonstrating need for improvement for 3 or more consecutive years, a support team must be established for the school. (NRS 385.3721, 385.3745) This bill eliminates the requirement for the Department of Education to establish a support team for a school ~~, [that is not a Title I school]~~ and section 6 of this bill authorizes the Department, if deemed necessary, to establish a support team for such a school. (NRS 385.361)

Section 10 of this bill requires the ~~[Department]~~ *board of trustees of a school district or the governing body of a charter school* to conduct a comprehensive audit for a school ~~[that is not a Title I school and]~~ that is designated as demonstrating need for improvement for 3 consecutive years, including an audit of the curriculum implemented at the school. (NRS 385.3721)

Section 16 of this bill eliminates the requirement that the Department develop and carry out a new curriculum for certain schools that have demonstrated need for improvement for 3 consecutive years. (NRS 385.3744)

Section 18 of this bill requires the development of a turnaround plan for each school that is not a Title I school that has demonstrated need for improvement for 4 consecutive years. (NRS 385.3745)

Section 19 of this bill maintains the requirement that a restructuring plan must be developed if a Title 1 school has demonstrated need for improvement for 4 consecutive years and prescribes the requirements for such plans. (NRS 385.3746)

Sections 2 and 3 of this bill require the implementation of the turnaround plan for each school that is not a Title I school if the school demonstrates need for improvement 5 or more consecutive years and requires the Department to monitor the implementation of that plan.

Section 3.5 of this bill requires the implementation of a restructuring plan for each Title I school if the school demonstrates need for improvement for 5 or more consecutive years.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 , ~~[and]~~ 3 *and 3.5* of this act.

Sec. 2. *1. If a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:*

(a) The board of trustees of the school district shall:

(1) ~~[Implement]~~ Except as otherwise provided in subsection 3 of section 3 of this act, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745;

(2) 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

(3) 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 State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school.

2. If a charter school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The governing body of the charter school shall:

(1) ~~[Implement]~~ Except as otherwise provided in subsection 3 of section 3 of this act, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on a form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or 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) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the charter school.

Sec. 3. *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 5 or more consecutive years for failure to make adequate yearly progress:*

(a) 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, 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.

(b) 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.

2. The Department shall monitor the implementation of the turnaround plan for the school developed pursuant to NRS 385.3745.

3. The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions pursuant to this section for a school , *including, without limitation, the development and implementation of a turnaround plan,* *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 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 or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will 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. 3.5. *1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years:*

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 2, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(2) 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;

(3) 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;

(4) 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

(5) 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:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) 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;

(III) 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; and

(IV) 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.

(2) Sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) 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;

(III) 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; and

(IV) 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.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(c) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school or charter school.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, 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 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 a school, including, without limitation, the development and implementation of a plan for restructuring, 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 charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 4. NRS 385.3455 is hereby amended to read as follows:

385.3455 As used in NRS 385.3455 to 385.391, inclusive, *and sections 2 , ~~[and]~~ 3 and 3.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 385.346 to 385.34675, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 385.3468 is hereby amended to read as follows:

385.3468 The provisions of NRS 385.3455 to 385.391, inclusive, *and sections 2 , ~~[and]~~ 3 and 3.5 of this act* do not supersede, negate or otherwise limit the effect or application of the provisions of chapters 288 and 391 of NRS or the rights, remedies and procedures afforded to employees of a school district under the terms of collective bargaining agreements, memoranda of understanding or other such agreements between employees and their employers.

Sec. 5.5. NRS 385.357 is hereby amended to read as follows:

385.357 1. ~~[The]~~ *Except as otherwise provided in sections 2 and 3.5 of this act, 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 of NRS 385.347 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.

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. 5.7. *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 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 ~~[.]~~ *, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, as applicable.*

(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 regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 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 of NRS 385.347 and the ~~[plan]~~ *:*

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357 ~~[.]~~ *;*

(2) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(3) Plan for restructuring the school implemented pursuant to section 3.5 of this act,

➥ *whichever is applicable for the school.*

(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. 6. NRS 385.361 is hereby amended to read as follows:

385.361 1. The State Board shall define the measurement for determining whether each public school, each school district and this State are making adequate yearly progress. The definition of adequate yearly progress must:

(a) Comply with 20 U.S.C. § 6311(b)(2) and the regulations adopted pursuant thereto;

(b) Be designed to ensure that all pupils will meet or exceed the minimum level of proficiency set by the State Board, including, without limitation:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities; and

(4) Pupils who are limited English proficient;

(c) Be based primarily upon the measurement of progress of pupils on the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(d) Include annual measurable objectives established pursuant to 20 U.S.C. § 6311(b)(2)(G) and the regulations adopted pursuant thereto;

(e) For high schools, include the rate of graduation; and

(f) For elementary schools, junior high schools and middle schools, include the rate of attendance.

2. The examination in science must not be included in the definition of adequate yearly progress.

3. The State Board shall prescribe, by regulation, the *differentiated corrective* ~~*[action and]*~~ *actions, the* consequences or *the* sanctions, or ~~[both,]~~ *any combination thereof, based upon the identified needs of the public school, including, without limitation, a disproportionate number of English language learners or pupils receiving special education services or other educational needs of the public school,* that apply to a public school ~~[that is not a Title I school and]~~ that has been designated as demonstrating need for improvement for 4 consecutive years or more ~~[.]~~ *, including, without limitation, the establishment of a support team for a school if deemed necessary by the Department in accordance with the regulations of the State Board.* In no event may the consequences or sanctions be more strict than the restructuring that applies to Title I schools.

Sec. 7. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school ~~*[that is not 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 *or 385.3746 or section 2 or 3.5 of this act* 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 ~~*[that is not 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 *or 385.3745 or and section 2 or 3.5 of this act* 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 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 ~~*[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 ~~*[385.372, 385.3743]*~~ *or 385.3746 or section 2 or 3.5 of this act* do not apply:

(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) If the school is a charter school:*~~

~~*(1) 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.*~~

~~*(2) 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.*~~

~~*(3) 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.*~~

~~*(c)]*~~ Except as otherwise provided in paragraph (b), ~~*[(d),]*~~ 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) ~~*[(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 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. 8. ~~[NRS 385.3661 is hereby amended to read as follows:~~

~~385.3661 1. Except as otherwise provided in subsection 2, if a public school that is not 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~~ *and section 2 of this act* ~~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 that is not 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~~ *and section 2 of this act* ~~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 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. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.372, 385.3743 or 385.3746 do not apply:~~

~~(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) If the school is a charter school:~~

~~(1) 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.~~

~~(2) 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.~~

~~(3) 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.~~

~~(c) Except as otherwise provided in paragraph (d), 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.~~

~~(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 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.]~~ *(Deleted by amendment.)*

Sec. 9. ~~[NRS 385.372 is hereby amended to read as follows:~~

~~385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:~~

~~(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:~~

~~(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.~~

~~(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.~~

~~(b) If the school is a charter school:~~

~~(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.~~

~~(2) Sponsored by the State Board or 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) 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] 385.3743 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] 385.3743 apply to the charter school as if the delay never occurred.]~~ *(Deleted by amendment.)*

Sec. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ *2,* 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:

(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.]~~ *require the board of trustees of the school district to conduct a comprehensive audit of the school which* ~~*[:*~~

~~*(1) Must]*~~ *must include an audit of the curriculum , including, without limitation, methods of instruction and assessments, implemented by the school .* ~~*[; and*~~

~~*(2) May include an audit of any other criteria prescribed by the State Board, including, without limitation, any information relating to the*~~

~~*school which is described in paragraphs (a) to (e), inclusive, of subsection 1 of NRS 385.3742, even though the school is not subject to the provisions of that section relating to a support team.]*~~

2. If a charter school ~~*[that is not a Title I school]*~~ is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or 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) The Department shall ~~[establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.]~~ *require the governing body of the charter school to conduct a comprehensive audit of the charter school which* ~~*[:*~~

~~*(1) Must]*~~ *must include an audit of the curriculum , including, without limitation, methods of instruction and assessments, implemented by the charter school .* ~~*[; and*~~

~~*(2) May include an audit of any other criteria prescribed by the State Board, including, without limitation, any information relating to the charter school which is described in paragraphs (a) to (e), inclusive, of subsection 1 of NRS 385.3742, even though the charter school is not subject to the provisions of that section relating to a support team.]*~~

Sec. 11. NRS 385.374 is hereby amended to read as follows:

385.374 1. The membership of each support team established pursuant to NRS ~~[385.3721]~~ ~~*[385.3743 and]*~~ *385.3745* must consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) One member appointed in accordance with subsection 3, who must serve as the team leader of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. The membership of each support team established pursuant to NRS ~~[385.3721]~~ ~~*[385.3743 and]*~~ *385.3745* may consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 12. NRS 385.374 is hereby amended to read as follows:

385.374 1. ~~[The]~~ *If a school support team is established in accordance with the regulations adopted by the State Board pursuant to NRS 385.361, the* membership of ~~[each]~~ *the* support team ~~[established pursuant to NRS 385.3745]~~ must consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) One member appointed in accordance with subsection 3, who must serve as the team leader of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. ~~[The]~~ *If a school support team is established in accordance with the regulations adopted by the State Board pursuant to NRS 385.361, the* membership of ~~[each]~~ *the* support team ~~[established pursuant to NRS 385.3745]~~ may consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 13. 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]~~ ~~*[385.3743 or]*~~ *385.3745* shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) 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, the support team shall make the recommendations to the State Board and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(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, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.

(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. 14. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. ~~[Each]~~ *If a school support team is established pursuant to the regulations adopted by the State Board pursuant to NRS 385.361, the* support team ~~[established for a public school pursuant to NRS 385.3745]~~ shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) 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, the support team shall make the recommendations to the State Board and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(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 turnaround plan for the school*

implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is applicable for the school. The written revisions must:

(1) Comply with NRS 385.357 ~~[.]~~ *if the school has demonstrated need for improvement for less than 5 years or with section 2 or 3.5 of this act, as applicable, if the school has demonstrated need for improvement for 5 or more consecutive years;*

(2) If the school is a Title I school, be ~~*[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, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.

(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 385.3743 is hereby amended to read as follows:~~

~~385.3743 1. [In addition to the requirements of NRS 385.3721,] *Except as otherwise provided in subsection 2,* 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] *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;*~~

~~*(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;*~~

~~*(3)* 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)] *(4)* 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)] *(5)* Except as otherwise provided in subsection [2,] *3,* take corrective action pursuant to 20 U.S.C. § 6316(b)(7) 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.*~~

~~2. If the school is a charter school:~~

~~[(1) Sponsored]~~

~~*(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:~~

~~[(I)] *(1) 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;*~~

~~*(2)* 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)] *(3)* Except as otherwise provided in subsection [3,] *4,* take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.~~

~~[(2) Sponsored]~~

~~*(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:~~

~~[(I)] *(1) 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;~~

~~*(2)* 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)] *(3)* Except as otherwise provided in subsection [3,] *4,* take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.~~

~~[(3)] *(d)* 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.] *(e) The Department shall establish a support team for the school with the membership prescribed pursuant to NRS 385.374.*~~

~~*3.* 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] *385.3746* apply as if the delay never occurred.~~

~~[3.] *4.* 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] *385.3746* apply as if the delay never occurred.~~

~~*5. The support team established pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.]~~ *(Deleted by amendment.)*

Sec. 16. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection ~~[3,]~~ *2,* 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 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~~ *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)~~ *(b)* Extend the school year or the school day.

~~3.~~ *2.* 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 Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 17. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. 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, the support team established for the school pursuant to ~~[NRS 385.3721]~~ *this section* shall carry out the requirements of NRS 385.3741 ~~[,]~~ *and* 385.3742 . ~~[and 385.3744, as applicable.]~~

2. 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:

(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~~ *establish* a support team for the school ~~.~~ *, with the membership prescribed pursuant to NRS 385.374.*

3. If a charter 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:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board 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) The Department shall ~~[continue]~~ *establish* a support team for the charter school ~~[.]~~ *, with the membership prescribed pursuant to NRS 385.374.*

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 this section shall carry out the requirements of NRS 385.3741 and 385.3742.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ *2,* 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) ~~*[Develop]*~~ *Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (b).*

(2) 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)]~~ *(3)* 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]~~ *State Board* shall ~~[establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.~~

~~3.]~~ *prescribe by regulation:*

(1) The requirements for a turnaround plan ~~[, including a]~~ which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721; ~~[and]~~

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan; and

(2) The actions the Department may take to monitor the ~~[implementation]~~ development of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the school.

2. 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]~~ *:*

(1) ~~[Develop]~~ Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (d).

(2) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or 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]~~ *:*

(1) ~~[Develop]~~ Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (d).

(2) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The ~~[Department shall establish a support team for the charter school, with the membership prescribed pursuant to NRS 385.374.]~~ *State Board shall prescribe by regulation:*

(1) The requirements for a turnaround plan ~~[, including a]~~ which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721; ~~[and]~~

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan; and

(2) The actions the Department may take to monitor the implementation of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the charter school.

3. If a public school is granted a delay from the development of a turnaround plan pursuant to subsection 2 of NRS 385.376 and the school fails to make adequate yearly progress during the period of the delay, a turnaround plan must be immediately developed and implemented for the school in accordance with this section as if the delay never occurred.

4. A turnaround plan developed for a school must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau; and

(d) Board of trustees of the school district in which the school is located.

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]~~ *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 notice of the designation to the parents and guardians of the pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;*

(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;

(3) 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)]~~ *(4)* 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)]~~ *(5)* Except as otherwise provided in subsection ~~[2, proceed with]~~ *3, develop* a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) *The governing body of the charter school shall provide notice of the designation to the parents and guardians of the pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.* If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) *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;

(II) 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)]~~ *(III)* Except as otherwise provided in subsection ~~[3, proceed with]~~ *4, develop* a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall:

(I) *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;*

(II) 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)]~~ *(III)* Except as otherwise provided in subsection ~~[3, proceed with]~~ *4, develop* a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

~~*[(c) The Department shall continue to provide a support team established pursuant to NRS 385.3743 for the school and the charter school.]*~~

2. *A plan for restructuring the school developed pursuant to this section must include, without limitation:*

(a) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(b) Measurable goals and objectives for obtaining adequate yearly progress;

(c) Specified steps or actions for obtaining adequate yearly progress; and

(d) A timeline for the completion of the plan for restructuring the school.

3. The board of trustees of a school district shall grant a delay from the ~~[imposition]~~ *development* 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 *immediately develop and* proceed with ~~[a]~~ *the implementation of the* plan for restructuring the school as if the delay never occurred.

~~[3.]~~ *4.* The sponsor of a charter school shall grant a delay from the ~~[imposition]~~ *development* 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, *a plan for restructuring must be immediately developed for the school in accordance with this section and* the Department shall proceed with ~~[a]~~ *the implementation of the* plan for restructuring the charter school as if the delay never occurred.

~~[4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:~~

~~(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;~~

~~(b) An opportunity to comment before the plan to restructure is developed; and~~

~~(c) An opportunity to participate in the development of the plan to restructure.]~~

5. A plan for restructuring developed pursuant to this section must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau; and

(d) Board of trustees of the school district in which the school is located.

Sec. 20. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection ~~[3,]~~ *2,* 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 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 *differentiated corrective actions*, consequences or sanctions, or ~~[both,]~~ *any combination thereof,* as prescribed by the State Board pursuant to NRS 385.361.

~~[3.]~~ *2.* The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action *, consequences* or ~~[restructuring]~~ *sanctions, or any combination thereof,* 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 Department or the board of trustees, as applicable, may proceed with corrective action *,* ~~[or with]~~ consequences or sanctions, or ~~[both,]~~ *any combination thereof,* for the school, as appropriate, as if the delay never occurred.

~~[4.]~~ *3.* Before the board of trustees or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will 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 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, 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 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 differentiated correction actions, consequences or sanctions, or any combination thereof, as prescribed by the State Board pursuant to NRS 385.361.

2. The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, 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 Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any combination thereof, for the school, as appropriate, *pursuant to the provisions of section 2 of this act* as if the delay never occurred.

3. Before the board of trustees or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as

applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will 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. 21.3. *NRS 385.3785 is hereby amended to read as follows:*

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation ~~[;]~~ *, the turnaround plan for the school implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is applicable for the school;* and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both ~~[.]~~ *, or that are linked to the turnaround plan for the school or the plan for restructuring the school, if applicable, or for innovative programs, or both.* The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 5. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in *, as applicable,* the ~~[plan]~~ *:*

(I) Plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(II) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(III) Plan for restructuring the school implemented pursuant to section 3.5 of this act;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

4. If a public school or consortium that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➥ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

5. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

6. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon *, as applicable,* the ~~[plan]~~ *:*

(1) Plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(3) Plan for restructuring the school implemented pursuant to section 3.5 of this act;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

➥ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

7. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

8. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 21.7. 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 of NRS 385.347 to the board of trustees of the school district in which the charter school is located for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

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 charter schools pursuant to this section and *pursuant to* NRS 385.357 ~~[,]~~ *or section 2 or 3.5 of this act, whichever is applicable for the school,* consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 22. NRS 386.730 is hereby amended to read as follows:

386.730 1. Except as otherwise provided in subsection 2, the principal of a public school within a school district that participates in the Program of Empowerment Schools who wishes to convert to an empowerment school shall:

(a) Establish an empowerment team for the school; and

(b) Develop an empowerment plan for the school in consultation with:

(1) The empowerment team; and

(2) The school support team, if a school support team has been established for the school pursuant to NRS ~~[385.3721.]~~ ~~*[385.3743 or]*~~ *385.3745*.

2. The principal of a public school located in a county whose population is less than 100,000 may develop an empowerment plan for the school without establishing or consulting with an empowerment team. If a school support team has been established for the school, the principal shall develop the empowerment plan in consultation with the school support team. If an empowerment team has not been established pursuant to the exception provided in this subsection, the principal of the school shall carry out the responsibilities and duties otherwise assigned to an empowerment team pursuant to NRS 386.700 to 386.780, inclusive.

3. An empowerment team for a school must consist of the following persons:

(a) The principal of the school;

(b) At least two but not more than four teachers and other licensed educational personnel who are employed at the school, selected by a recognized employee organization that represents licensed educational personnel within the school district;

(c) At least two but not more than four employees, other than teachers and other licensed educational personnel, who are employed at the school, selected by an organization that represents those employees;

(d) At least two but not more than four parents and legal guardians of pupils enrolled in the school, selected by an association of parents established for the school;

(e) At least two but not more than four representatives of the community or businesses within the community;

(f) The facilitator of the school support team, if a school support team has been established for the school pursuant to NRS ~~[385.3721.]~~ ~~*[385.3743 or]*~~ *385.3745;* and

(g) Such other persons as may be necessary to meet the requirements set forth in subsection 4.

4. Of the total number of members on an empowerment team for a school:

(a) At least one member must have 5 years or more of experience in school finance;

(b) At least one member must have 5 years or more of experience in school administration or human resources;

(c) At least one member must have 5 years or more of experience in overseeing the academic programs and curriculum for a public school; and

(d) At least one member must have 5 years or more of experience in the collection and analysis of data.

➥ The provisions of this subsection do not require the appointment of four persons if one, two or three such persons satisfy the qualifications.

5. A charter school that wishes to participate in the Program of Empowerment Schools shall comply with the provisions of NRS 386.700 to 386.780, inclusive. If a charter school is approved as an empowerment school, the charter school does not forfeit its status as a charter school.

Sec. 23. NRS 386.730 is hereby amended to read as follows:

386.730 1. Except as otherwise provided in subsection 2, the principal of a public school within a school district that participates in the Program of Empowerment Schools who wishes to convert to an empowerment school shall:

(a) Establish an empowerment team for the school; and

(b) Develop an empowerment plan for the school in consultation with:

(1) The empowerment team; and

(2) The school support team, if a school support team has been established for the school *in accordance with the regulations of the State Board adopted* pursuant to NRS ~~[385.3745.]~~ *385.361.*

2. The principal of a public school located in a county whose population is less than 100,000 may develop an empowerment plan for the school without establishing or consulting with an empowerment team. If a school support team has been established for the school, the principal shall develop the empowerment plan in consultation with the school support team. If an empowerment team has not been established pursuant to the exception provided in this subsection, the principal of the school shall carry out the responsibilities and duties otherwise assigned to an empowerment team pursuant to NRS 386.700 to 386.780, inclusive.

3. An empowerment team for a school must consist of the following persons:

(a) The principal of the school;

(b) At least two but not more than four teachers and other licensed educational personnel who are employed at the school, selected by a recognized employee organization that represents licensed educational personnel within the school district;

(c) At least two but not more than four employees, other than teachers and other licensed educational personnel, who are employed at the school, selected by an organization that represents those employees;

(d) At least two but not more than four parents and legal guardians of pupils enrolled in the school, selected by an association of parents established for the school;

(e) At least two but not more than four representatives of the community or businesses within the community;

(f) The facilitator of the school support team, if a school support team has been established for the school pursuant to *regulations adopted by the State Board pursuant to* NRS ~~[385.3745;]~~ *385.361;* and

(g) Such other persons as may be necessary to meet the requirements set forth in subsection 4.

4. Of the total number of members on an empowerment team for a school:

(a) At least one member must have 5 years or more of experience in school finance;

(b) At least one member must have 5 years or more of experience in school administration or human resources;

(c) At least one member must have 5 years or more of experience in overseeing the academic programs and curriculum for a public school; and

(d) At least one member must have 5 years or more of experience in the collection and analysis of data.

➥ The provisions of this subsection do not require the appointment of four persons if one, two or three such persons satisfy the qualifications.

5. A charter school that wishes to participate in the Program of Empowerment Schools shall comply with the provisions of NRS 386.700 to 386.780, inclusive. If a charter school is approved as an empowerment school, the charter school does not forfeit its status as a charter school.

Sec. 24. NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school pursuant to NRS ~~[385.3721,]~~ ~~*[385.3743 or]*~~ *385.3745*, require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357;

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

Sec. 25. NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school *in accordance with the regulations of the State Board adopted* pursuant to NRS ~~[385.3745,]~~ *385.361*, require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357 ~~[,]~~ *, the turnaround plan for the school implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is applicable for the school;*

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

Sec. 25.3. *NRS 391.298 is hereby amended to read as follows:*

391.298 If the board of trustees of a school district or the superintendent of schools of a school district schedules a day or days for the professional development of teachers or administrators employed by the school district:

1. The primary focus of that scheduled professional development must be to improve the achievement of the pupils enrolled in the school district, as set forth in the ~~[plan]~~ :

(a) Plan to improve the achievement of pupils *enrolled in the school district* prepared pursuant to NRS 385.348 ~~[or]~~ ;

(b) Plan to improve the achievement of pupils prepared pursuant to NRS 385.357 ~~[,]~~ ;

(c) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(d) Plan for restructuring the school implemented pursuant to section 3.5 of this act,

➥ as applicable.

2. The scheduled professional development must be structured so that teachers attend professional development that is designed for the specific subject areas or grades taught by those teachers.

Sec. 25.7. *NRS 391.540 is hereby amended to read as follows:*

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district may submit recommendations to the appropriate governing body for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b), review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program and, as deemed necessary by the governing body, review the ~~[plans]~~ :

(1) Plans to improve the achievement of pupils prepared pursuant to NRS 385.357 ;

(2) Turnaround plans for schools implemented pursuant to section 2 of this act; and

(3) Plans for restructuring schools implemented pursuant to section 3.5 of this act,

➥ for individual schools within the primary jurisdiction of the regional training program.

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education and the board of trustees of a school district may request the governing body of the regional training program that serves the school district to provide training, participate in a program or otherwise perform a service that is in addition to the duties of the regional training program that are set forth in the plan

adopted pursuant to this section or otherwise required by statute. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations. The governing body of a regional training program may, but is not required to, grant a request pursuant to this subsection.

Sec. 26. NRS 392.456 is hereby amended to read as follows:

392.456 1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school pursuant to NRS ~~[385.3721,]~~ ~~*[385.3743 or]*~~ *385.3745*, if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 27. NRS 392.456 is hereby amended to read as follows:

392.456 1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school *in accordance with the regulations of the State Board adopted* pursuant to NRS ~~[385.3745,]~~ *385.361*, if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 28. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of 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.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If *a school support team is established for* an elementary school , ~~[is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years or more,]~~ the principal of the school shall provide to the support team established for the school pursuant to NRS ~~[385.3721]~~ ~~*[385.3743 or]*~~ *385.3745* information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 29. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of 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.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If a school support team is established *in accordance with the regulations of the State Board adopted pursuant to NRS 385.361* for an elementary school, the principal of the school shall provide to the support team ~~[established for the school pursuant to NRS]~~ [385.3745] ~~*[NRS 385.3455 to 385.391, inclusive, and sections 2 and 3 of this act]*~~ information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 30. On or before January 1, 2010, the State Board of Education shall adopt the regulations required pursuant ~~[section]~~ *to sections* 2 *and 3.5* of this act *, NRS 385.361, as amended by section 6 of this act,* and NRS 385.3475, as amended by section 18 of this act.

Sec. 31. 1. This section and sections 6, ~~[7,]~~ 9, 10, 11, 13, 15, 16, 17, ~~[19,]~~ 20, 22, 24, 26, 28 and 30 of this act become effective on July 1, 2009.

2. Sections 1, 2 *, 3.5* and 18 of this act become effective on July 1, 2009, for the purpose of adopting regulations and on July 1, 2010, for all other purposes.

3. Sections 3, ~~[4, 5,]~~ *4 to 5.7, inclusive, 7,* 8, 12, 14, *19,* 21, *21.3, 21.7,* 23, 25, *25.3, 25.7,* 27 and 29 of this act become effective on July 1, 2010.

4. Sections 23 and 25 of this act expire by limitation on June 30, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener and Carlton.

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

SENATOR WIENER:

Amendment No. 456 to Senate Bill No. 389 specifies that the curriculum audit for schools designated as demonstrating need for improvement for three consecutive years shall be completed by the school district or governing body of a charter school rather than the Department of Education.

It specifies that the curriculum audit must include a review of the methods of instruction and assessments administered by the school.

The amendment specifies the minimum criteria to be included in the turnaround plan for non-Title I schools and the restructuring plan for Title I schools that have been designated as demonstrating need for improvement for four consecutive years.

It eliminates the requirement for a school to develop a plan for improvement when the school is also required to develop a turnaround or restructuring plan.

SENATOR CARLTON:

Thank you, Mr. President. It is my understanding that all Title I schools do not receive Title I funding. Do you take that into consideration when you evaluate the schools. We have what is called "bubble schools." They can apply for Title I funding, but the money only goes so far down the list. Technically, you may have a school on the list that should have received money, but we ran out. When we evaluate these schools, do we take the receipt of those funds into consideration when deciding how to restructure the school?

SENATOR WIENER:

This innovative bill allows us to address the needs of non-Title I schools similarly to the way we assess Title I schools.

The measure innovates remedial efforts with school-specific turn-around plans that help all of our schools, not just those that qualify for Title I. With turn-around plans, remediators go into the school with a plan for each particular school, rather than doing what we have typically done, with a one-size-fits-all approach. These plans also allow us to get to problems sooner. Turn-around plans are more customized to get to each school's issues and needs much more quickly. For example, we have had concerns with our lack of performance under "No Child Left Behind." Let us say a school misses one of the 23 or 24 criteria. For example, a school might be short one student in a subgroup. A turn-around plan allows the school to focus on one challenge while allowing the remaining categories of evaluation to continue producing at appropriate levels. This plan is an innovative way to produce greater outcomes for both Title I and non-Title I schools.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 8.

Bill read third time.

Roll call on Senate Bill No. 8:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 8 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 47.

Bill read third time.

Roll call on Senate Bill No. 47:

YEAS—20.

NAYS—None.

EXCUSED—Townsend.

Senate Bill No. 47 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 265.

Bill read third time.

Roll call on Senate Bill No. 265:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 265 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

Bill read third time.

Roll call on Senate Bill No. 268:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 268 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 295.

Bill read third time.

Remarks by Senators Amodei and Carlton.

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

SENATOR AMODEI:

On page 4, lines 10 through 12, it states that a person shall not provide goods or services in exchange for "payments based on a percentage or share of revenues." It is my understanding that the traditional construction for legislative purposes is that unless the word "payments" or the word "revenues" is qualified, that the assumption is that it was the intention of the Legislature not to qualify those. Those are both global words, if you make any payments or any revenues. I am hoping that was the understanding of the Chair of the committee in the amendment. Is there anyone from the committee with a different view?

SENATOR CARLTON:

He is absolutely correct. I believe that was the impression we were all left with. I believe the amendment that was processed earlier on fee splitting addressed it to an even deeper extent at the request of the committee. I do believe you are correct.

Roll call on Senate Bill No. 295:
YEAS—12.
NAYS—Care, Coffin, Lee, Mathews, McGinness, Raggio, Rhoads, Washington—8.
EXCUSED—Townsend.

Senate Bill No. 295 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 335.

Bill read third time.

Roll call on Senate Bill No. 335:
YEAS—20.
NAYS—None.
EXCUSED—Townsend.

Senate Bill No. 335 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 351.

Bill read third time.

Remarks by Senators Schneider, Care and Wiener.

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

SENATOR SCHNEIDER:

On page 12, the bill discusses how an executive board may have a workshop. It was deemed "must." What was the testimony on that? A workshop is really a closed meeting. Members of homeowners associations become nervous when a closed meeting is held. What was the need for this, and who asked for this?

SENATOR CARE:

The testimony was that this was not supposed to enable an executive board to take any sort of executive action while in closed session. It was a workshop to prepare for a meeting. It was to select what will be on an agenda but not to deliberate and not to take action.

SENATOR WIENER:

Another example would involve members of the board who might need to go somewhere to see landscaping, or they might need to look at several examples of something that they might want to consider for developing the common area. In these cases, they would not be voting but would only be going, as members of the board, to observe.

Roll call on Senate Bill No. 351:
YEAS—19.
NAYS—Coffin.
EXCUSED—Townsend.

Senate Bill No. 351 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

Bill read third time.

Roll call on Senate Bill No. 376:
YEAS—12.
NAYS—Amodei, Cegavske, McGinness, Nolan, Raggio, Rhoads, Washington—7.
NOT VOTING—Hardy.
EXCUSED—Townsend.

Senate Bill No. 376 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

There being no objections, the President and Secretary signed Assembly Bills Nos. 136, 137, 250.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Whitehead Elementary School: Kimberly Arnold, Austin Burkhart, Del Daylami, Andrea Delisle, Victoria Dickson, Sarah Ebling, Matthew Feierabend, Dominick Franco, Jordan Fritz, Jennifer Garcia, Celie Harrington, Hunter Henderson-Espinoza, Ashley Hutchinson, Osvaldo Jimenez-Estupinan, Conner Laslo, Hallie Lerma, Hezeny Mariscal, Conner McCaul, Natalie Orsi, Sara Trejo Lopez, Tiana Walker, Dylan Warkentin, Morgan Weatherhead, Cody Wheatley, Arial Wright, Maci Abrott, Yesenia Aguilar Vasquez, Thomas Behney, Madison Claypool, Jasmine Comprix, Danielle Donatelli, Ashlee Durante, Denilson Espana, Blake Fitzmier, Jennifer Gonzalez, Destyny Grooms, Keely Grow, Nicholas Hawkins, Annabel Hernandez, Toni Kane, Stefani Orozco, Anthony Peabody, Logan Pine, Alyssa Pokorski, Omar Rodriguez Hernandez, Mailynn Santacruz-Anderson, Bianca Serrano, Harvey Wood, Matthew Worden, Grace Yancey, Izabella Baumann, Kate Borsz, Matthew Butler, Thomas Dawley, Katherine Delgado, Natalie Gonzalez, Nicholas Gopen, Darby Grow, Carlos Jimenez, Anna King, Braun King, Samantha Linnenbrink, Arianna Matherly, Nicholas Milan, Jake Nance, Jacob Ross, Jordan Senda, Sarah Sepulveda, Bobby Jo Silvertooth, Ashlee Smith, Cory Starks, Michelle Trejo Lopez, Lincoln Turner and Kayla White.

Senator Horsford moved that the Senate adjourn until Tuesday, April 21, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 7:28 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate